

MINUTES
ZONING BOARD OF APPEALS
June 20, 2018

MEMBERS PRESENT: MICHAEL BOSCO
 THOMAS QUINN
 PATRICIA CASTELLI, ACTING CHAIR
 JOAN SALOMON
 LEONARD FEROLDI, ALTERNATE

ABSENT: DAN SULLIVAN

ALSO PRESENT: Ann Marie Ambrose, Official Stenographer
 Deborah Arbolino, Administrative Assistant
 Denise Sullivan, Deputy Town Attorney

This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting Chair.
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

FOTIS 478 Convent Road Blauvelt, NY 69.20 / 1 / 33; R-15 zone	UNDERSIZED LOT BUILDING HEIGHT VARIANCE APPROVED	ZBA#18-34
RIM 235 Betsy Ross Drive Orangeburg, NY 73.16 / 2 / 13; R-22 zone	REAR YARD VARIANCE APPROVED	ZBA#18-35
PFIZER VILLAGE GREEN 401 N. Middletown Road Pearl River, NY 68.08 / 1 / 5; LI zone	BOARD DETERMINED FENCE IS LOCATED IN REAR YARD PER FILED SUBDIVISION MAP	ZBA#18-36
PASHLEY 50 Dutch Hollow Drive Orangeburg, NY 74.06 / 2 / 50; RG zone	ACCESSORY STRUCTURE SIDE YARD AND DISTANCE FROM ANOTHER STRUCTURE VARIANCES APPROVED	ZBA#18-37
BOTTARI 4 Private Del Regno Court Blauvelt, NY 70.13 / 1 / 23.4; R-15 zone	FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED	ZBA#18-38

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: 30 Rockland Park Road Site Plan, construction of 2 concrete pads on already impervious surface; 30 Rockland Park Road, Tappan, NY 77.16 / 1 / 33; LIO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:20 P.M.

Dated: June 20, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN OF ORANGETOWN
2018 JUN 28 P 3:33
TOWN CLERK'S OFFICE

DECISION

UNDERSIZED LOT APPLIES: BUILDING HEIGHT VARIANCE APPROVED

To: Ellen Fotis
478 Convent Road
Blauvelt, New York 10913

ZBA #18-34
Date: June 20, 2018
Permit #47570

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-34: Application of Ellen Fotis for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.21(e) (Undersized Lot Building Height: 20' permitted, 24'6" proposed) for an addition to an existing single-family house. The premises are located at 478 Convent Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 33; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2018 at which time the Board made the determination hereinafter set forth.

Lawrence Giannetta, son-in-law appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Addition/Alteration for the Fotis Residence" with the last revision date of 05/01/2018 not signed or sealed by John Perkins, Architect (4 pages).
2. A letter dated June 20, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated June 14, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated May 18, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
5. No comments dated May 16, 2018 from the Rockland County Department of Health.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Mr. Leonard Feroldi and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Lawrence Giannetta testified that his mother-in-law is retired and is moving down here from New Windsor to be closer to her family; and that she would like to add another story to the current dwelling; that the house is on an undersized lot and in order to accommodate the height restriction for undersized lots, which is 20', he would have to put on a flat roof which would not be in keeping with the other houses in the area; and that the proposed addition is complementary to the surrounding houses.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested Undersized lot §5.21 (e) building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed building height is comparable to many houses in the area.
2. The requested Undersized lot §5.21 (e) building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed building height is comparable to many houses in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested Undersized lot §5.21 (e) building height variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed building height is comparable to many houses in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested §5.21 (e) undersized lot building height variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

TOWN CLERK'S OFFICE

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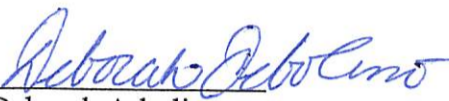
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The foregoing resolution to approve the application for the requested §5.21 (e) undersized lot building height variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: June 20, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-G.M.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2018 JUN 28 P 3:34
TOWN CLERK'S OFFICE

DECISION

REAR YARD VARIANCE APPROVED

To: Caleb Rim
235 Betsy Ross Drive
Orangeburg, New York 10962

ZBA #18-35
Date: June 20, 2018
Permit #46774

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-35: Application of Caleb Rim for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-22 District, Group I, Column 11 (Rear Yard: 45' required, 24' proposed) for a deck at an existing single-family residence located at 235 Betsy Ross Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.16, Block 2, Lot 13; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2018 at which time the Board made the determination hereinafter set forth.

Caleb Rim appeared and testified.

The following documents were presented:

1. Site plan dated August 8, 2016 with the latest revision date of December 12, 2017 based on a survey dated 06/07/1974 by Adler, Caruso & Young, P.E., by Eric Knute Osborne, Architect.
2. A letter dated June 20, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, acting Commissioner of Planning.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Caleb Rim testified that he is permitted a 45 foot rear yard and he is asking for a 24' rear yard to accommodate the deck; that he purchased his house 6 ½ years ago; that there was a deck on the house; that the deck was in need of repair, so they were rebuilding the deck and they expanded it at the same time; that they were stopped by Ed Mc Phearson and told that they needed a permit; that they applied for a permit and were sent to this Board because they needed a variance for the rear yard; and that almost all of the houses in the area have rear decks that are larger than his proposed deck.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Feroldi and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is a corner lot with two front yards and the house was built off center on the lot. Many houses in the neighborhood have rear yard decks.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is a corner lot with two front yards and the house was built off center on the lot. Many houses in the neighborhood have rear yard decks.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested rear yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The lot is a corner lot with two front yards and the house was built off center on the lot. Many houses in the neighborhood have rear yard decks.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested rear yard variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


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The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: June 20, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-G.M.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

**SECTION 5.227 ACCESSORY STRUCTURE SIDE YARD AND SECTION 5.153
ACCESSORY STRUCTURE DISTANCE FROM ANOTHER STRUCTURE
VARIANCES APPROVED**

To: Steve and Marissa Pashley
50 Dutch Hollow Drive
Orangeburg, New York 10962

ZBA #18-37
Date: June 20, 2018
Permit # 47502

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-37: Application of Steve and Marissa Pashley for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 5.227 (Accessory Structure Side Yard: 5' required, 2' existing) and from Section 5.153 (Accessory Structure distance from another structure: 15' required, 5' existing) for an existing shed at an existing single-family house. The premises are located at 50 Dutch Hill Road, Orangeburg, New York and are identified on the Orangetown tax Map as Section 74.06, Block 2 Lot 50 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2018 at which time the Board made the determination hereinafter set forth.

Steve and Marissa Pashley appeared and testified.

The following documents were presented:

1. Site plan with the shed drawn in on it.
2. Survey with the shed drawn on it dated April 5, 2000 by Robert Sorace, PLS.
3. Hand drawing of the shed.
4. An open letter regarding the shed signed by Marissa Pashley and dated 6/20/2018 and signed by neighbors Margaret and Peter Byrnes.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Steve Pashley testified that he built the shed three or four years ago; that they spoke to the neighbors before it was built and no one had a problem with the shed; that the attic in the house is filled with the air conditioning equipment and there is no room for storage there; that they have three kids and the garage is full in the summer with their stuff; that they use the shed for the lawn equipment and it is located on the flat portion of the yard; that the siding and the roof on the shed matches the house; and there are at least three or four other sheds in the immediate area that are similarly located but he doesn't want to cause any problems for his neighbors.

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Marissa Pashley testified that they found out that they needed a permit and a variance for the shed because they put in a permit to expand the house and that is why they are before the Board and she has a letter that she showed her neighbors and would like to submit it for the record.

Public Comment:

Peter Byrnes, 54 Dutch Hollow Drive, testified that he is the neighbor closest to the shed and that he hopes the Board approves the variance because the shed looks very nice and the Pashleys' are very good neighbors and they keep the property beautiful and they need the storage space with the three little kids; and having them as neighbors is a benefit to the block.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested § 5.153 accessory structure distance and § 5.227 accessory structure side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing shed is not intruding or interfering with anyone's property enjoyment and it is landscaped nicely.
2. The requested § 5.153 accessory structure distance and § 5.227 accessory structure side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing shed is not intruding or interfering with anyone's property enjoyment and it is landscaped nicely.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested § 5.153 accessory structure distance and § 5.227 accessory structure side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The existing shed is not intruding or interfering with anyone's property enjoyment and it is landscaped nicely.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested § 5.153 accessory structure distance and § 5.227 accessory structure side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

TOWN CLERK'S OFFICE

2018 JUN 28 P 3:34

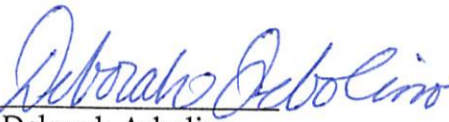
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The foregoing resolution to approve the application for the requested § 5.153 accessory structure distance and § 5.227 accessory structure side yard variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: June 20, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-D.M.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERK'S OFFICE
2018 JUN 28 P 3:35
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED

To: Jerry Bottari
4 Private Del Regno Court
Blauvelt, New York 10913

ZBA #18-38
Date: June 20, 2018
Permit #47705

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-38: Application of Jerry Bottari for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .21 existing, .23 proposed) and 8 (Front Yard: 30' required, 24.1'proposed) for an addition to an existing single-family residence located at 4 Private Del Regno Court, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.13, Block 1, Lot 23.4; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2018 at which time the Board made the determination hereinafter set forth.

Jerry Bottari appeared and testified and also submitted documentation stating that he is a Town Board member.

The following documents were presented:

1. Architectural plans dated May 17, 2018 labeled "Bottari Residence one story addition" signed and sled by Harold J. Goldstein, Architect.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Jerry Bottari testified that his children and grandchildren are moving back in with them; that he and his wife are reclaiming the dining area and converting the existing two car garage into a sitting room, wet-bar and sitting area for themselves; that they will be sharing the existing kitchen; that the garage floor is presently lower than the existing house and they are adding the side porch area to provide a separate entrance and walkway; that they have a rear yard variance for the existing pool and there are several house in the neighborhood with front or side porches; and he does have two front yards.

Public Comment:

No public comment.

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The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The changes to the existing floor area ratio and front yard conditions are minimal and the applicant has two front yards. Several other houses have front and/or side porches.
2. The requested floor area ratio and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The changes to the existing floor area ratio and front yard conditions are minimal and the applicant has two front yards. Several other houses have front and/or side porches.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and front yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The changes to the existing floor area ratio and front yard conditions are minimal and the applicant has two front yards. Several other houses have front and/or side porches.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio and front yard variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

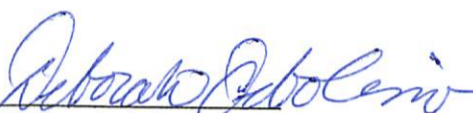
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The foregoing resolution to approve the application for the requested floor area ratio and front yard variances are APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: June 20, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-M.M.

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE.ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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DECISION

**NO FRONT YARD VARIANCE IS REQUIRED
DETERMINATION OF THE ZONING BOARD OF APPEALS TO ACKNOWLEDGE
THE YARDS AS LABELED ON THE FILED SUBDIVISION PLAT**

To: Dave Sliter (Pfizer Village Green)
401 North Middletown Road
Pearl River, New York 10965

ZBA #18-36
Date: June 20, 2018
Permit #Not Assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-36: Application of Pfizer Village Green Fence Site Plan Phase 2 for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Group JJ, Section 3.12, Column 8 (Front Yard: 0' or 45' required, 5' proposed) for the installation of a fence. The premises are located at 401 N. Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 5 in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2018 at which time the Board made the determination hereinafter set forth.

Anthony Bispo, Dave Sliter, Pfizer, and Kristen Solloway, P.E., Fuss & O'Neill, appeared and testified.

The following documents were presented:

1. Plans labeled "Pfizer Pearl River Village Green Fence Phase 2" latest revision date 10/18/2017 signed and sealed by Craig M. Lapinski (D101, C101, C501 C502).
2. Site Plan Lot 1 Subdivision dated January 2014 with the latest revision date of 5/18/2015 signed and sealed by Edward T. Gannon L.S..
3. Plans labeled "16 x 20 Pavilion Structure , Turnstile & Gates Landscape Renovation" dated 10/18/2017 signed and sealed by Robert F. Pulito, Architect. (A101 & A102).
4. A letter dated June 20, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated May 21, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Denise Sullivan , Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on January 10, 2018 (set forth in PB#18-02 for the Village Green Phase 2-pfizer site Plan) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by

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Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Bosco, aye. Mr. Sullivan was absent.

Kristen Solloway, P.E., Fuss & O'Neill, testified that several years ago the property appeared before the Planning Board for a subdivision at the time of submission the yards were labeled with the front yard for the property facing North Middletown Road and the rear yard abutting Draper Way which is an internal road/pathway between the IRG property and the Pfizer property; that their application for a building permit was rejected by the Building Department as they determined that the "drawings submitted indicate there is a 5' rear yard however the pavilion now fronts on a front yard due to the subdivision" and that the rear yard is a front yard and that they need a variance for a front yard fence.

Anthony Bispo testified that when they appeared before the Planning Board in January, he argued that the subdivision map designates this area as a rear yard; that the Planning Board said they would leave the determination up to the Director of the Building Department and that is how they ended up before the Board; that the proposal is for an open roofed-over area that will have a security turn style with a card reader for employees and a fence for the Village Green tenants that will denote the property line; and that the fence is a 4' ornamental metal fence.

Public Comment:

No public comment.

The Board discussed the subdivision plat and questioned if a filed subdivision map that denotes specific yards as front, rear and side should be changed after it is filed at the County; and they discussed that Draper Way is not a public street.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Bosco and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

- 1 The requested front yard variance is not necessary because there is a filed subdivision map; Additionally the (Site Plan Lot 1 Subdivision dated January 2014 with the latest revision date of 5/18/2015 signed and sealed by Edward T. Gannon L.S.) submitted clearly delineates the area where the fence and gate are proposed to be built as a rear yard.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard variance is not necessary and to OVER-RIDE the the Building Department in its determination that the area delineated rear yard on the filed subdivision map is a front yard; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


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The foregoing resolution to OVER-RIDE the Determination of the Building Department that a front yard variance is required; and FURTHER RESOLVED that it is the determination of the ZONING BOARD OF APPEALS that the area delineated rear yard on the filed subdivision map is a REAR YARD; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: June 20, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-not assigned

TOWN CLERK
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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