

MINUTES
ZONING BOARD OF APPEALS
MARCH 20, 2019

MEMBERS PRESENT: DAN SULLIVAN
PATRICIA CASTELLI,
LEONARD FEROLDI, ALTERNATE
THOMAS QUINN

ABSENT: MICHAEL BOSCO
JOAN SALOMON

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

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.
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:

ST. DOMINIC'S
EMERGENCY GENERATOR
496 Western Highway
Blauvelt, NY
74.06 / 3 / 1.1; R-40 zone

PERFORMANCE STANDARDS
CONTINUED

ZBA#19-29

REGINA
127 Old Tappan Road
Tappan, New York
77.10 / 3 / 12; R-15 zone

SIDE YARD AND
TOTAL SIDE YARD VARIANCES
APPROVED UNDERSIZED
LOT ACKNOWLEDGED

ZBA#19-30

GALLAGHER
112 South John Street
Pearl River, New York
68.20 / 3 / 54; RG zone

TOTAL SIDE YARD
VARIANCE APPROVED

ZBA#19-31

CARNEY
68 Pearce Parkway
Pearl River, NY
69.09 / 5 / 15; R-15 zone

LOT AREA, LOT WIDTH,
FRONT YARD AND BUILDING
HEIGHT VARIANCES APPROVED
UNDERSIZED LOT ACKNOWLEDGED

ZBA#19-32

MARINO
79 Swanekin Road
Blauvelt, NY
69.20 / 1 / 69; R-15 zone

FRONT YARD, SIDE YARD,
AND TOTAL SIDE YARD
VARIANCES APPROVED

ZBA#19-33

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FRASCA
79 Corbett Lane
Palisades, NY
78.19 / 1/ 21; R-22 zone

ACCESSORY STRUCTURE
BUILDING HEIGHT VARIANCE
APPROVED

ZBA#19-34

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 8:30 P.M.

Dated: March 20, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

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DECISION

UNDERSIZED LOT § 5.21 (c) APPLIES: SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Stephen and Bonnie Regina
127 Old Tappan Road
Tappan, New York 10983

ZBA #19-30
Date: March 20, 2019
Permit # 48370

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-30: Application of Stephen and Bonnie Regina for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M , Section 5.21 (c) Undersize lot applies, Column 9 (Side Yard: 15' required, 10' proposed) and Column 10 (Total Side Yard: 30' required, 22.90 existing, 26.08' proposed) for an addition to an existing single-family residence. The premises are located at 127 Old Tappan Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 12; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 20, 2019 at which time the Board made the determination hereinafter set forth.

Stephen and Bonnie Regina appeared and testified.

The following documents were presented:

1. Architectural plans dated 8/16/2018 signed and sealed by Robert Hoene, Architect with the site plan on it.
2. A letter dated March 14, 2019 from the County of Rockland Department of Planning signed by Douglas J. Schuetz. Acting Commissioner of Planning.
3. A letter dated February 21, 2019 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
4. A letter dated March 6, 2019 from Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
5. Two no comment forms from Rockland County Highway Department and Rockland County Health Department.
6. Six pictures of other houses in the area with small side yards.
7. Two pictures of the Regina house from the rear yard.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco and Ms. Salomon were absent.

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Stephen Regina testified that they are proposing a small addition to the rear of the house and to continue the dormer in the rear of the house to make for livable space upstairs; that the lot is long and narrow and most of the property is in the rear of the house; that the new addition is inset from the existing side yard and the side yard on the east is existing and not changing; that there is about 85' between his house and the neighbor most effected by the proposed addition; and he has pictures of his house and other houses in the area that have similar side yards.

Public Comment:

Francesco Greco, 119 Old Tappan Road, testified that he is the neighbor most affected by the addition and that he has five windows on that side of his house but he has no objection and thinks this is a great design.

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.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli 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 side yard and total side yard variances (Undersized lot acknowledged) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and the property is long and narrow and most of the yard is in the rear of the property. Similar additions have been constructed in the area.
2. The requested side yard and total side yard variances (Undersized lot acknowledged) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area. The lot is undersized and the property is long and narrow and most of the yard is in the rear of the property.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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4. The requested side yard and total 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 Board acknowledged the undersized lot. Similar additions have been constructed in the area. The property is long and narrow and most of the yard is in the rear of the property.
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 side yard and total side yard variances are APPROVED and the undersized lot is acknowledged; 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.

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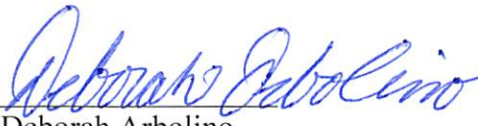
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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.

The foregoing resolution to approve the application for the acknowledgment of the undersized lot and the requested side yard and total side yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Ms. Salomon and Mr. Bosco were 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: March 20, 2019

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

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

DECISION

TOTAL SIDE YARD VARIANCE APPROVED

To: Liam Gallagher
112 John Street
Pearl River, New York

ZBA #19-31
Date: March 20, 2019
Permit # 48026

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-31: Application of Liam Gallagher for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 3.12, Group Q, Column 10 (Total Side Yard: 30' required, 28.8' proposed) for an addition to an existing single-family residence. The premises are located at 112 South John Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 3, Lot 54 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 20, 2019 at which time the Board made the determination hereinafter set forth.

Liam Gallagher and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 11/4/2018 with the latest revision dated of 1/17/2019 signed and sealed by Karl Ackermann, Architect.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco and Ms. Salomon were absent.

Karl Ackermann, Architect, testified that the house is a modest colonial; that the family is expanding and the need more space; that they are proposing to expand the existing ceilings on the second floor to eight foot ceilings and proposing to add a master bedroom suite so that all of the bedrooms will be on the same floor; that when the house was originally constructed it was so with a 6.7' side yard; that they are not expanding this side yard and they are still under the required floor are ratio.

Liam Gallagher testified that they have lived in the house for ten years; that one side yard is 22.08 and the other is 6.7 and the lot is only 75' wide but it is long and narrow.

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.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli 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 total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar conditions exist in the area because houses were built prior to zoning and as they presently sit on the lots they encroach into the required side yards. Other houses in the neighborhood have done similar additions.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar conditions exist in the area because houses were built prior to zoning and as they presently sit on the lots they encroach into the required side yards. Other houses in the neighborhood have done similar additions.
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 total side 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. Similar conditions exist in the area because houses were built prior to zoning and as they presently sit on the lots they encroach into the required side yards. Other houses in the neighborhood have done similar additions.
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 total side 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.

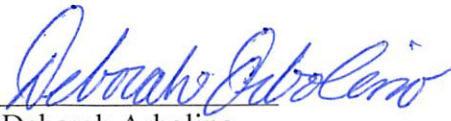
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The foregoing resolution to approve the application for the requested total side yard variance is APPROVED; was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon and Mr. Bosco were 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: March 20, 2019

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

UNDERSIZED LOT APPLIES: LOT AREA, LOT WIDTH, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Karl Ackermann (Carney)
159 E. Central Avenue
Pearl River, New York 10965

ZBA #19-32
Date: March 20, 2019
Permit #48026

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-32: Application of Justin and Deborah Carney for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.21 Undersize lot applies, Group M, Section 3.12, Columns 5 (Lot Area: 15,000 sq. ft. required, 14,810 sq. ft. existing), 6 (Lot Width: 100' required, 97' existing), 8 (Front Yard: 30' required, 23.75' & 29.3' proposed- two (2) front yards) and 12 (Building Height: 20' permitted, 25.5' proposed) for an addition to an existing single- family residence. The property is located at 68 Pearce Parkway, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 15; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 20, 2019 at which time the Board made the determination hereinafter set forth.

Justin Carney and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 7/19/2018 signed and sealed by Karl Ackermann, Architect.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco and Ms. Salomon were absent.

Karl Ackermann, Architect, testified that this is a corner lot which adds to the hardship; that he has designed several additions for houses on this street and the surrounding area; that these houses are simple colonials and adding a front porch adds character to the design of the house; that they area also adding living space by an addition of a family room and they area reconfiguring the inside of the house and will come out with the same number of bedrooms after the addition of the master bedroom suite; that 87 Pearce has a similar front porch as does another house on Douglas.

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Justin Carney testified that the house belonged to his grandparents and then his parents and now himself; that he grew up in the house and now he and his wife have one child and another on the way.

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.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli 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 lot area, lot width, front yard and building height variances (Undersized lot applies) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot area and the lot width are existing conditions that cannot be changes. Similar additions have been constructed in the area.
2. The requested lot area, lot width, front yard, building height variances (Undersized lot applies) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot area and the lot width are existing conditions that cannot be changes. Similar additions have been constructed 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 lot area, lot width, front yard, building height variances, (Undersized lot applies) 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 area and the lot width are existing conditions that cannot be changes. Similar additions have been constructed 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 lot area, lot width, front yard and building height variances (Undersized lot applies) 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.

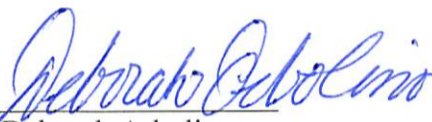
TOWN CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested lot area, lot width, front yard and building height variances (Undersized lot applies) are APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Ms. Salomon and Mr. Bosco were 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: March 20, 2019

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 OF ORANGETOWN
2019 MAR 26 P 1:53
TOWN CLERK'S OFFICE

DECISION

FRONT YARD, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Jonathan Hodash (Marino)
22 Third Street
New City, New York 10956

ZBA #19-33
Date: March 20, 2019
Permit # 48516

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-33: Application of Paul and Kristen Marino for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 8 (Front Yard: 30' required, 29' proposed), 9 (Side Yard: 20' required, 13.29' proposed) and 10 (Total Side Yard: 50' required, 38.9' proposed) for an addition to an existing single-family residence. The premises are located at 79 Swannekin Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 69; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 20, 2019 at which time the Board made the determination hereinafter set forth.

Paul and Kristen Marino and Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated September 2018 with the latest revision date of 1/7/2019 signed and sealed by Jonathan Hodash, Architect.
2. Revised site plan dated 3/19/2019 showing two existing sheds that were not included in the original submittal.
3. A Certificate of occupancy dated 11/28/2017 for the 24 x 14 shed.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon and Mr. Bosco were absent.

Jonathan Hodash, Architect, testified that the lot is a corner lot; that they are trying to legalize the front porch that was built a couple of years ago; that they are adding a two-car garage with a breezeway, mudroom and laundry room; that they submitted three revised site plans tonight because they forgot to add the two existing sheds on the property; that they have a certificate of occupancy for the 24' x 14' shed; and that the additional sheds do not cause any additional variances.

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Paul Marino testified that the 12' x10' shed was there when he purchased the property and that he will remove it because it is a mess; that he and his wife purchased the house four years ago; that there have been many additions made to other properties on Swanekin and some of them are massive.

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.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli 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, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has volunteered to remove the existing 12' x 10' shed that was constructed without a permit prior to his purchase of the property. Many houses in the neighborhood have similar and larger additions.
2. The requested front yard, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has volunteered to remove the existing 12' x 10' shed that was constructed without a permit prior to his purchase of the property. Many houses in the neighborhood have similar and larger additions.
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 front yard, side yard and total 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 applicant has volunteered to remove the existing 12' x 10' shed that was constructed without a permit prior to his purchase of the property. Many houses in the neighborhood have similar and larger additions.

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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 front yard, side yard and total side yard variances are APPROVED with the Specific Condition that the illegal 12' x 10' shed shall be removed from the property prior to issuance of a building permit; 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.

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(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.

The foregoing resolution to approve the application for the requested front yard, side yard and total side yard variances are APPROVED with the Specific Condition that the illegal 12' x 10' shed shall be removed from the property prior to issuance of a building permit;; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bosco and Ms. Salomon were 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: March 20, 2019

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

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DECISION

ACCESSORY STRUCTURE BUILDING HEIGHT VARIANCE APPROVED

To: Margaret Fowler (Frasca)
500 North Broadway
Nyack, New York 10960

ZBA #19-34
Date: March 20, 2019
Permit #48524

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-34: Application of Curt and Sabella Frasca for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 5.227 (Accessory Structure Building Height: 15' permitted, 16' 4" proposed) for an accessory barn at an existing single-family residence. The premises are located at 79 Corbett Lane, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 21; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 20, 2019 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 01/31/2019 signed and sealed by Margaret Fowler, Architect, labeled "Frasca Residence Reclaimed Barn" 2 pages.
2. Site plan dated 3/31/2018 signed and sealed by Thomas W. Skrable, P.E.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Margaret Fowler, Architect, stated that the reclaimed barn was transported down to the property from Vermont; that the old timbers are in good shape ; that it is going to be located where the pile of stones are on the property; that they do need a height variance; that they have already planted an apple orchard on the property; that the barn will be 22' x 29'; that the estimated year the barn was built is between 1830 to 1850; that they are hoping to find more reclaimed wood in order to complete the whole barn in it; that it is being proposed for that area because it will be tucked in amongst the trees and it is five feet from the property line.

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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.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli 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 accessory structure building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The structure is unique and meets the side yard set-back and since it is an historic barn that is being reconstructed in the historic area of Palisades, the requested height variance seems quite reasonable.
2. The requested accessory structure building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The structure is unique and meets the side yard set-back and since it is an historic barn that is being reconstructed in the historic area of Palisades, the requested height variance seems quite reasonable.
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 accessory structure 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 structure is unique and meets the side yard set-back and since it is an historic barn that is being reconstructed in the historic area of Palisades, the requested height variance seems quite reasonable.

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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 accessory structure 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.

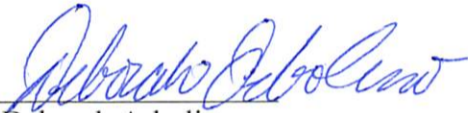
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The foregoing resolution to approve the application for the requested accessory structure building height variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Ms. Salomon and Mr. Bosco were 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: March 20, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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