

MINUTES
ZONING BOARD OF APPEALS
November 6, 2019

MEMBERS PRESENT: DAN SULLIVAN
THOMAS QUINN
JOAN SALOMON
PATRICIA CASTELLI,

ABSENT: LEONARD FEROLDI, ALTERNATE
MICHAEL BOSCO

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

POSTPONED ITEMS:

| | | |
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| CHAVEZ 640 Western Highway Blauvelt, NY 70.09 / 1 / 59; R-15 zone | REAR YARD AND FRONT YARD VARIANCES APPROVED | ZBA#19-93 |
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| | | |
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| INSTRUMENTATION LABORATORY SITE PLAN 526 Route 303 Orangeburg, New York 70.19 / 1 / 45; LO zone | SECTION 13.10 B (14); PARKING IN FRONT YARD; REAR YARD VARIANCE; SECTION 5.22 AND SECTION 5.153 ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED | ZBA#19-94 |
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| CHEER HALL LLC 20 Washington Spring Road Palisades, NY 78.19 / 1 / 17; R-22 zone | SECTION 5.153 ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED | ZBA#19-95 |
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NEW ITEMS:

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|--|--|-----------|
| SCIORTINO 4 Plum Court Nanuet, NY 64.19 / 1 / 53; R-22 zone | SIDE YARD AND SECTION 5.227 REAR YARD FOR A SWIMMING POOL VARIANCES APPROVED | ZBA#19-96 |
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TOWN OF ORANGETOWN
2019 NOV 14 P 12:05
TOWN CLERK'S OFFICE

SCALISE
21 Nancy Road
Nanuet, NY
64.18 / 2 / 18; R-22 zone

SIDE YARD AND SECTION 5.227
REAR YARD FOR A SWIMMING POOL
VARIANCES APPROVED

ZBA#19-97

BARRIS FENCE
80 Washington Spring Road
Palisades, New York
78.18 / 1 / 12; R-22 zone

FRONT YARD FENCE HEIGHT
VARIANCE APPROVED

ZBA#19-98

GALLIGAN/MC KEE
30 Griffith Place
Pearl River, New York
72.08 / 1 / 74; RG zone

SECTION 4.58 VARIANCE
FOR OWNING THE HOUSE LESS THAN
15 YEARS IS DENIED

ZBA#19-99

O'SULLIVAN
30 Pauline Terrace
Pearl River, New York
69.09 / 3 / 42; R-15 zone

FLOOR AREA RATIO
VARIANCE APPROVED

ZBA#19-100

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: Fischer Site Plan, critical environmental area, 151 Tweed Boulevard, Nyack, NY, 75.05 / 1 / 14; R-22 zone; Amendment to Lot #3 of Sickletown Woods Subdivision –Dedication of Detention Basin, 257 Sickletown Road, Pearl River, NY, 69.08/ 1/ 1.1; R-40 zone; Gyimesi Site Plan, & Gyimesi Tree Remediation Plan, 814 Route 9W Site Plan, Nyack, NY 75.05/ 1 / 5; R-22 zone; Chizinski Subdivision Plan, 317 Orangeburg, Road, Pearl River, NY 69.17 / 2 / 42; R-15 zone; Deck Site Plan, 80 Old Mountain Road South, critical environmental area; Upper Grandview, NY, 71.05 / 1 / 30; R-22; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:05
TOWN CLERK'S OFFICE

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 9:10 P.M.

Dated: November 6, 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

TOWN OF ORANGETOWN
2019 NOV 14 P 12:05
TOWN CLERK'S OFFICE

DECISION

FRONT YARD AND REAR VARIANCES APPROVED

To: Ana Chavez
640 Western Highway
Blauvelt, New York 10964

ZBA #19-93
Date: November 6, 2019
Permit #49057

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-93: Application of Ana Chavez 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, 25.4' proposed) and 11 (Rear Yard: 35' required, 13.2' proposed) for a deck at an existing single-family residence. The premises are located at 640 Western Highway, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.09, Block 1, Lot 59 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Isabel Ryan appeared and testified.

The following documents were presented:

1. Survey dated February 1, 2019 last revised July 23, 2019 signed and sealed by Robert Sorace, PLS.
2. A letter dated October 1, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated October 7, 2019 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
4. A letter dated September 19, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
5. A letter dated September 19, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Isabel Ryan testified that her mom recently purchased the house and there is no outside seating area; that they had the architectural plans done for the front porch and deck at the same time; that they are not planning to add the front porch now and they don't know if they will add it in the future; that her mom purchased the house with the circular driveway because she liked the idea of being able to pull in and go out without backing up into the street; that the driveway behind

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:05
TOWN OF ORANGETOWN

the house is shared with another property and if she had to use that there is no room to turn around in it; that using that driveway would mean that she would have to back out into the road; that the property has two front yards and that is why she needs two variances for the proposed deck; and that she will talk to the Rockland County Highway Department to discuss their letter.

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 and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property has two front yards and the requested variances are a result of that condition.
2. The requested front yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property has two front yards and the requested variances are a result of that condition.
3. The applicant shall obtain a work permit from the Rockland County Highway Department and address their concerns.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested front yard and rear 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 property has two front yards and the requested variances are a result of that condition.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:05
TOWN CLERK'S OFFICE

6. 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 and rear yard variances are APPROVED with the Specific Condition that the applicant obtain a work permit from Rockland County Highway Department and address their concerns; 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.

TOWN CLERK'S OFFICE

2019 NOV 14 P 12:05

TOWN OF ORANGETOWN

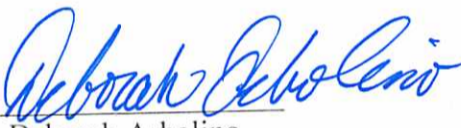
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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 and rear yard variances are APPROVED with the Specific Condition that the applicant obtain a work permit from Rockland County Highway Department and address their concerns; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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-G.M.

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

TOWN OF ORANGETOWN
2019 NOV 14 P 12:05
TOWN CLERK'S OFFICE

DECISION

SECTION 13.10 B (14) ABOVE GROUND DETENTION WITHIN BUFFER, SECTION 5.224 PARKING IN FRONT YARD; REAR YARD, SECTION 5.22 YARDS SHALL BE UNOBSTRUCTED; SECTION 5.153 ACCESSORY STRUCTURE SHOULD BE 15' FROM PRINCIPAL STRUCTURE; VARIANCES APPROVED

To: Donald Brenner (Instrumentation Labs)
526 Route 303
Orangeburg, New York 10964

ZBA #19-94
Date: November 6, 2019
Permit # 48870

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-94: Application of Instrumentation Laboratory Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LO District, Section 13.10 B (14): (In no case shall the above ground detention basin be sited within any buffer area or within any front yard setback area or within the designated street line), Section 5.224, Table 3.11, LO District, Column 7 #3 (No parking is permitted in any yard: parking is proposed in front yard), Section 3.11, Column 11 (Rear Yard; 100' required, 58' proposed) for the new 1-story addition at the south-west corner; Section 5.22 (All required yards shall be unobstructed. 100' rear yard setback required with 47.1' proposed to the existing wooden lean-to structure; and from Section 5.153 (No accessory structure shall be closer to any principal building or to any other accessory building or structure than a distance equal to the height of such accessory building or structure, and in no event less than 15 feet, unless it is attached to and is a part of such principal building: variance is required for wooden lean-to structure, 15' required, 14' proposed and to the pre-fab canopy over dumpster 15' required, 7.2' proposed) for site plan approval for Instrumentation Laboratory. The premises are located at 526 Route 303, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 45 in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Robert Walsh, P.E., and Randy Vlasak, appeared and testified.

The following documents were presented:

1. EI Associates Architects & Engineers, PC plans labeled "Instrumentation Laboratory Orangeburg, NY Facility Expansion" dated May 29, 2019 with the last revision date of September 12, 2019 A11, A12, A30; signed and sealed by Richard F. Basta, Architect.
2. EI Associates Architects & Engineers, PA, dated April 10, 2018 with the latest revision date of August 23, 2019 labeled " Instrumentation Laboratory Building & Parking Addition" T01 C01, C02, C03, C04, C05, C06, C07, C08, C09 signed and sealed by Robert E. Walsh, P.E..
3. Planning Board Decision #19-45 dated July 31, 2019.
4. Memorandums dated August 28, 2019 and July 12, 2019 from Jane Slavin, Architect, Director, OBZPAE, Orangetown.
5. A letter dated October 2, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Director of Planning.
6. A letter dated October 7, 2019 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:05
TOWN OF ORANGETOWN

7. A letter dated September 23, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
8. A letter dated September 19, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

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 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 July 31, 2019 (as set forth in PB# 19-45 Instrumentation Laboratory 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 Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Donald Brenner testified that this project has been before the Planning Board and received a preliminary approval and a neg dec; that the Rockland County Highway Department should not have jurisdiction because the property is not located on a county road; that this business has been there long before the Route 303 Overlay was created; that the parking has always existed in the front yard; that the proposed shed is for the worker that smoke to have a place to go to do that; that they are proposing a cover over the dumpster; and that he would request that the Board override #1 of Rockland County Planning's letter dated October 2, 2019.

Randy Vlasak testified that the business has been steadily growing; that they expect to have 90 new high tech scientific employees in the next ten years; that the cover over the dumpster was a suggestion from the EPA ; that the shifts overlap and the parking is needed to accommodate the employees; and that the building was used as a scientific research building since 1973 and one of the previous tenants was Fischer Diagnostics and Instrumentation took over in 1991.

Robert Walsh, P.E. testified that the building needed to be expanded to accommodate the businesses success; that the parking exists in the front of the building already; that the expansion of the building is triggering the need for the detention basin and the basin is proposed in this location because it is located in the lower area of the lot; that the property has two front yards and the rear yard meets the railroad right of way; that there is an un-named tributary to the Sparkill Creek on the property; that it is not a regulated waterway but they are being respectful of it because it is a tributary to the Sparkill Creek; that they have done geo-technical testing and

TOWN CLERK'S OFFICE

2019 NOV 14 P 12:05

TOWN OF ORANGETOWN

along Glenshaw is very shallow; that the 8-10' ground water where the system is being proposed will permit 10.5" of water per hour into the basin; that the basin will not be holding water for very long; that there is a berm proposed to shield the water and the optimal amount of stormwater will be managed because of the proposed location of the basin; that there is a 25' drainage easement on the western side of the property that ends where the northern parcel is and that will not be affected by the additional parking proposed.

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 Section 13.10B (14) above ground detention basin within buffer, Section 5.224 Parking in front yard; rear yard, Section 5.22 yards should be unobstructed, and Section 5.153 Accessory structures shall be 15' from the principal structure variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Scientific Research companies have existed in this location since the 1970's. This applicant is proposing to expand the building and improve the site. There has always been parking in the front of the building and the addition of the basin to collect stormwater and the additional landscaping will improve the aesthetics of the lot.
2. The requested Section 13.10B (14) above ground detention basin within buffer, Section 5.224 Parking in front yard; rear yard, Section 5.22 yards should be unobstructed, and Section 5.153 Accessory structures shall be 15' from the principal structure variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Scientific Research companies have existed in this location since the 1970's. This applicant is proposing to expand the building and improve the site. There has always been parking in the front of the building and the addition of the basin to collect stormwater and the additional landscaping will improve the aesthetics of the lot.

TOWN CLERK'S OFFICE

2019 NOV 14 P 12:05

TOWN OF ORANGETOWN

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 Section 13.10B (14) above ground detention basin within buffer, Section 5.224 Parking in front yard; rear yard, Section 5.22 yards should be unobstructed, and Section 5.153 Accessory structures shall be 15' from the principal structure 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. Scientific Research companies have existed in this location since the 1970's. This applicant is proposing to expand the building and improve the site. There has always been parking in the front of the building and the addition of the basin to collect stormwater and the additional landscaping will improve the aesthetics of the lot.
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.
6. The Board made a motion to override #1 of the Rockland County Planning Department's letter dated October 2, 2019 because parking has existed in the front of the building since at least 1970 and site constraints limit the location of available parking; and the proposed location of the detention basin at the northerly end of the property is to mitigate stormwater runoff and where it will be able to collect 10.5" of water per hour, and is located a distance away from the tributary to the Sparkill Creek.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED to OVERRIDE Comment #1 of the Rockland County Department of Planning letter dated October 2, 2019 and to APPROVE the application for the requested Section 13.10B (14) above ground detention basin within buffer, Section 5.224 Parking in front yard; rear yard, Section 5.22 yards should be unobstructed, and Section 5.153 Accessory structures shall be 15' from the principal structure variances; 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.

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:05
TOWN OF ORANGETOWN

- (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
2019 NOV 14 P 12:09
TOWN OF ORANGETOWN

The foregoing resolution to override Comment #1 of the Rockland County Department of Planning letter dated October 2, 2019 and to APPROVE the application for the requested Section 13.10B (14) above ground detention basin within buffer, Section 5.224 Parking in front yard; rear yard, Section 5.22 yards should be unobstructed, and Section 5.153 Accessory structures shall be 15' from the principal structure variances; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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
2019 NOV 14 P 12:09
TOWN CLERK'S OFFICE

DECISION

**ACCESSORY STRUCTURE DISTANCE TO PRIMARY STRUCTURE VARIANCE
APPROVED**

To: Christian Martos (Cheer Hall)
15 N. Mill Street Suite 207
Nyack, New York 10960

ZBA #19-95
Date: November 6, 2019
Permit # 48996

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-95: Application of Cheer Hall LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District, Section 5.153 (Accessory structure distance to primary structure: 15' required, 10'9 ½" proposed) for a detached garage at an existing single-family residence. The premises are located at 20 Washington Spring Road, Palisades, New York and is identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 17 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Henry Rust, Architect, Andrea Currie, Owner, appeared and testified.

The following documents were presented:

1. Architectural plans dated 08/30/2019 signed and sealed by Christian Louis Martos, Profession Engineer, labeled "Removal and Replacement of Existing Garage" T-1, C-1, C-1.2, A-2 (4 pages).
2. A memorandum dated September 17, 2019 from the Rockland County Department of Planning.
3. A letter dated October 7, 2019 from the Rockland County Health Center for Environmental Health signed by Elizabeth Melo, P.E., Senior Public Health Engineer.
4. A letter dated September 19, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:06
TOWN CLERK'S OFFICE

Henry Rust, Architect, testified that the garage was not part of the original structures on the lot; that the garage was a non-contributing factor in the NYS Historic Structure Inventory of the Palisades area; that it is in very poor repair and located on the edge of an existing drainage canal; that the inside of the present garage is only 19' wide and the new proposed structure will be 28' x 24' and built almost on the existing footprint; that this garage will be able to house a modern vehicle;; that the garage cannot be moved back on the property; that the existing set back is 3.1' and the new setback will be 5' and the garage is a shield between the neighboring properties.

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 distance from primary structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing garage that is in very poor condition is sitting on an existing drainage canal and the new garage will be moved out of it. Although there is less than the required 15 feet between structures (the house and the garage), the buildings do not face each other, and because of that the distance seems greater.
2. The requested accessory structure distance from primary structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing garage that is in very poor condition is sitting on an existing drainage canal and the new garage will be moved out of it. . Although there is less than the required 15 feet between structures (the house and the garage), the buildings do not face each other, and because of that the distance seems greater.
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.

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:06
TOWN OF ORANGETOWN

4. The requested accessory structure distance from primary structure 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 existing garage that is in very poor condition is sitting on an existing drainage canal and the new garage will be moved out of it. . Although there is less than the required 15 feet between structures (the house and the garage), the buildings do not face each other, and because of that the distance seems greater.
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 distance to primary structure 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.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:06
TOWN CLERK'S OFFICE

(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 accessory structure distance to primary structure variance is APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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-G.M.

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

TOWN OF ORANGETOWN
2019 NOV 14 P 12:09
TOWN CLERK'S OFFICE

DECISION

**SIDE YARD AND SECTION 5.227 REAR YARD FOR POOL VARIANCES
APPROVED**

To: Louis and Jennifer Sciortino
4 Plum Court
Nanuet, New York 10954

ZBA #19-96
Date: November 6, 2019
Permit # 49187

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 19-96: Application of Louis and Jennifer Sciortino for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Column 9 (Side Yard: 20' required, 15' proposed) and from Section 5.227: (Swimming pools in the rear yard: 20' required, 15' proposed) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 4 Plum Court, Nanuet, New York and is identified on the Orangetown Tax Map as Section 64.19, Block 1, Lot 53; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Louis Sciortino, Robert Ball, Pool Company, and Scott Curtie, Landscape Contractor, appeared and testified.

The following documents were presented:

1. Pool plan for Sciortino dated 8/4/2019 signed and sealed by Paul Gdanski, P.E., PLLC.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Robert Ball, Westrock Pools, testified that they are requesting a 15' side yard setback instead of the required 20 feet and that they have a hardship of having two front yards; that they have placed the pool caddie corner on the lot and added two drainage pits to care of run-off; that the lot is not large; that the pool will be 21.8' from the house and that there is existing landscape at the house and then the patio, which is 15 feet wide and that then the pool; that a typical chaise lounge is 72" and you need room to walk around it and if they have a table and four chairs you need another nine feet; and that is why they do not think the request is unreasonable.

Louis Sciortino testified that they have owned the house for fifteen years.

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:06
TOWN OF ORANGETOWN

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 side yard variance and Section 5.227 rear yard for a pool variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other properties in the area have similar setbacks for pools.
2. The requested side yard variance and Section 5.227 rear yard for a pool variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other properties in the area have similar setbacks for pools.
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 side yard variance and section 5.227 rear yard for a pool 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. Other properties in the area have similar setbacks for pools.
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.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:06
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard variance and Section 5.227 rear yard for a pool 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
2019 NOV 14 P 12:09
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance and Section 5.227 rear yard for a pool variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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-Dom

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

TOWN OF ORANGETOWN
2019 NOV 14 P 12:06
TOWN CLERK'S OFFICE

DECISION

SIDE YARD VARIANCE AND SECTION 5.227 REAR YARD FOR SWIMMING POOL VARIANCE APPROVED: SECTION 5.227 VARIANCE FOR AN EXISTING SHED APPROVED

To: M. Noel Ordonez (Scalise Pool)
Cool Pool, 85 Pascack Road
Nanuet, New York 10954

ZBA #19-97
Date: November 6, 2019
Permit #49350

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-97: Application of Anthony Scalise for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Column 9 (Side Yard: 25' required, 12.3' proposed) and from Section 5.227 (Rear Yard for swimming pool: 20' required, 9' proposed) for an in-ground pool and **(Section 5.227 variance for an existing shed approved at hearing)** at an existing single-family residence. The premises are located at 21 Nancy Road, Nanuet, New York and is identified on the Orangetown Tax Map as Section 64.18, Block 2, Lot 18 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Michael Ordonez, Cool Pool, appeared and testified.

The following documents were presented:

1. Site plan labeled "Pool Plan #21 Nancy Road" dated 9/9/2019 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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Michael Ordonez, Cool Pool, testified that the applicant would like to install a pool for exercise and for the kids to play in; that the back yard is small and the applicant has chosen a small to pool because the yard is small; they are requesting to install a 14' x 45' pool; that the typical in-ground pool is 20' x 40'; that the rear yard has a hill area beyond the wall and the right side of the yard has a play area for the kids; and there is a 10' x 10' shed in the back corner of the property that is 2.2' and 1.8' from the rear and side yard.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
NOV 14 12:09
TOWN OF ORANGETOWN

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 variance and Section 5.227 rear yard for a pool and the Section 5.227 (accessory structures shall be 5' from any lot line: 2.2' & 1.8' exist for a shed) variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other properties in the neighborhood have similar setbacks for pools and sheds.
2. The requested side yard variance and Section 5.227 rear yard for a pool and the Section 5.227 (accessory structures shall be 5' from any lot line: 2.2' & 1.8' exist for a shed) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other properties in the neighborhood have similar setbacks for pools.
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 side yard variance and Section 5.227 rear yard for a pool and the Section 5.227 (accessory structures shall be 5' from any lot line: 2.2' & 1.8' exist for a shed) 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. Other properties in the neighborhood have similar setbacks for pools.
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.

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:06
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard variance and Section 5.227 rear yard for a pool variance and the Section 5.227 (accessory structures shall be 5' from any lot line: 2.2' & 1.8' exist for a shed) 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
2019 NOV 14 P 12:09
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard fence variance and Section 5.227 rear yard for a pool variance and the Section 5.227 (accessory structures shall be 5' from any lot line: 2.2' & 1.8' exist for a shed) is APPROVED; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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-Dom

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

TOWN OF ORANGETOWN
2019 NOV 14 P 12:09
TOWN CLERK'S OFFICE

DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED: 2' KNEE WALL & 5' FENCE ON TOP OF THE KNEE WALL APPROVED

To: William Bosley
10 Sugar Hill Road
Nyack, New York 10960

ZBA #19-98
Date: November 6, 2019
Permit #49314

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-98: Application of Mary Barris for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Section 5.226: Fences: (front yard fences cannot be more than 4 ½' in height: 6' proposed, **7' approved**) for a fence at an existing single-family residence. The premises are located at 80 Washington Spring Road, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 12 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

William Bosley, Contractor, and Mary Barris appeared and testified.

The following documents were presented:

1. Hand drawing (2 pages) dated 9/13/2019 by William Bosley showing the knee wall and existing chain link fence.
2. Site plan not signed or sealed or dated prepared by William Bosley.
3. A letter dated November 5, 2019 (sent by e-mail Nov. 6, 2019) from Stephen R. Foreht, Attorney, representing Thomas Mazziotti, 66 Washington Spring Road with attachments and pictures.
4. Three color pictures submitted by applicant at the hearing.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

William Bosley testified that the November 5, 2019 letter from Stephen R. Foreht, Esq. of Foreht Associates, LLP (attorneys for Thomas Mazziotti) that the clerk read into the record pertains to another property owned by the applicant at 75 Corbett Lane, Palisades, NY; and the fence in this application is proposed for 80 Washington Spring Road; that his client owns both properties but no work is presently proposed for 75 Corbett Lane; that they are proposing a more significant fence and a 2 foot knee wall; and that the property slopes and the fence may be a little higher than 6' in some areas and he would appreciate the Board granting a seven foot total height because of the slope of the property; that at some points the fence is more than 10' away from the property line.

TOWN CLERK'S OFFICE
NOV 14 2019 12:06
TOWN OF ORANGETOWN

Mary Barris testified that she and her husband purchased the property in 2002; that it had been abandoned for 13 years prior to his purchase of it; that they moved in to the house in 2004; that her husband died a couple of years ago; that there was a man stalking people in the neighborhood; that a few times people have entered the property over the existing fence; that she would like to new higher fence for privacy and safety concerns.

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 fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The fence and knee wall are being constructed on a property located on a private road. The owner testified that the existing fence has been breached and people have entered the property uninvited and the higher fence will afford the applicant privacy and a sense of security.
2. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The fence and knee wall are being constructed on a property located on a private road. The owner testified that the existing fence has been breached and people have entered the property uninvited and the higher fence will afford the applicant privacy and a sense of security.
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 front yard fence 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 fence and knee wall are being constructed on a property located on a private road. The owner testified that the existing fence has been breached and people have entered the property uninvited and the higher fence will afford the applicant privacy and a sense of security.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:06
TOWN CLERK'S OFFICE

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 fence height variance (2' knee wall & five foot fence on it) 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
NOV 14 P 12:09
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard fence height variance (2' knee wall and 5' fence on it) is APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE

DECISION

SECTION 4.58 VARIANCE DENIED

To: Craig McKee
30 Griffith Place
Pearl River, New York 10965

ZBA #19-99
Date: November 6, 2019
Permit #49119

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-99: Application of Craig McKee and Melanie Galligan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, RG District, Section 4.58 (Owner who converts the dwelling must reside in dwelling for 15 years: owner resides in dwelling one year) for a single-family conversion (Local Law 7) at an existing single-family residence. The premises are located at 30 Griffith Place, Pearl River, New York and is identified on the Orangetown Tax Map as Section 72.08, Block 1, Lot 74 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Craig McKee and Melanie Galligan appeared and testified.

The following documents were presented:

1. Survey dated March 16, 1972 for "Survey of Lot #8 Griffith Estates" by Robert Jost & Associates, Surveyors.
2. A drawing of the proposed space, no ledger, not signed, sealed or dated.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Craig McKee testified that he relied on information from the building department when he purchased this property; that he owns a house on Lincoln Avenue for 17 years but has since been disabled and purchased this house so that he can rent a small portion of it and afford to stay in the area; that when he looked at the house it had an apartment that he was told he could transfer to himself within a year of purchasing the house and now that he purchased the house a new letter with restrictions comes up and he cannot maintain the apartment; that the house next door, the neighbor passed away and it is being rented; that there is no law stopping him from moving out and renting the whole house and that he is trying to do the right thing.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE

Melanie Galligan testified that they purchased the house because Craig is disabled and they wanted to live on one level; that the previous owner did not disclose the restriction on the property; that they need to rent the apartment in order to stay in the area with their children and grandchildren; that they have parking for five cars that they have lived in the town for 17 years; and that this is not fair.

Public Comment:

Karen Fleming, 264 West Central Avenue, Pearl River, testified that she is the daughter of the neighbor that passed away. Her daughter is living in the house and has lived in the house for 14 years. Eventually they will probably sell the house and they do not want a rental property to effect the value of the house.

Mike Mangan, 18 Griffith Place, Pearl River, testified that he would be ok with the apartment existing for a family member; that the prior owners (the Ferreira's) initially had one renter for a short period of time; and then they used the apartment for two years for her father and then a longer period for his mother. The second kitchen was pulled out. He feels bad but he doesn't want just anybody living there.

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 Section 4.58 variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Town Code Chapter 43, Section 4.5 is very clear for single-family conversions. The owner of the property must have resided in the house for at least 15 years. Allowing a new owner to continue a use that was not legally permitted to the previous owner of the house would be setting a precedent that negates the entire purpose of the establishment of the Local Law #7 law that was instituted in 1981 with VERY SPECIFIC CONDITIONS: one of which is " The owner who first converts the dwelling subsequent to the effective date of this local law must have resided in said dwelling for at least 15 years".

TOWN OF ORANGETOWN
2019 NOV 14 P 12:01
TOWN CLERK'S OFFICE

2. The requested Section 4.58 variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Town Code Chapter 43, Section 4.5 is very clear for single-family conversions. The owner of the property must have resided in the house for at least 15 years. Allowing a new owner to continue a use that was not legally permitted to the previous owner of the house would be setting a precedent that negates the entire purpose of the establishment of the Local Law #7 law that was instituted in 1981 with VERY SPECIFIC CONDITIONS: one of which is “ The owner who first converts the dwelling subsequent to the effective date of this local law must have resided in said dwelling for at least 15 years”.
3. The requested Section 4.58 variance if granted would afford benefits to the applicant that would substantially outweigh the detriment, to the health, safety and welfare of the surrounding neighborhood or nearby community. Town Code Chapter 43, Section 4.5 is very clear for single-family conversions. The owner of the property must have resided in the house for at least 15 years. Allowing a new owner to continue a use that was not legally permitted to the previous owner of the house would be setting a precedent that negates the entire purpose of the establishment of the Local Law #7 law that was instituted in 1981 with VERY SPECIFIC CONDITIONS: one of which is “ The owner who first converts the dwelling subsequent to the effective date of this local law must have resided in said dwelling for at least 15 years”.
4. 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 Section 4.58 variance is DENIED; 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.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE

(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 OF ORANGETOWN
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested Section 4.58 variance is DENIED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 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-Dom

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

TOWN OF ORANGETOWN
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO VARIANCE APPROVED: FRONT YARD VARIANCE
ACKNOWLEDGED FROM ZBA#07-60 DATED JUNE 20, 2007**

To: Brian and Adrienne O'Sullivan
30 Pauline Terrace
Pearl River, New York 10965

ZBA #19-100
Date: November 6, 2019
Permit #49351

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-100: Application of Brian and Adrienne O'Sullivan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area ratio: .20 permitted, .213 existing, .245 proposed) and 8 (Front Yard: 30' required, 16' existing granted in ZBA#07-60 dated June 20, 2007) for enclosing an existing deck at an existing single-family residence. The premises are located at 30 Pauline Terrace, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 42 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2019 at which time the Board made the determination hereinafter set forth.

Brian O'Sullivan appeared and testified.

The following documents were presented:

1. Plot plan taken from survey prepared for Beckerle-Brown Inc, Pearl River, NY by Robert Jost Surveyor, Dated January 9, 1952.
2. Sketch of elevation of proposal for Brian O' Sullivan prepared by Chippa Construction dated 9/24/2019.

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: Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Brian O' Sullivan testified that would like to enclose the existing deck and make it a family room; that when he got the variance for the deck in 2008 he was told he would not need to come back for another variance because the side yard variance would already exist; that he was not told that he would need a floor area ratio variance.

TOWN CLERK'S OFFICE
2019 NOV 14 P 12:07
TOWN OF ORANGETOWN

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 floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio variance 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 neighborhood.
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 floor area ratio 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 additions have been constructed in the neighborhood.
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.

TOWN OF ORANGETOWN
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio 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
2019 NOV 14 P 12:07
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: November 6, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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TOWN ATTORNEY
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TOWN CLERK
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TOWN OF ORANGETOWN
2019 NOV 14 P 12:07
TOWN CLERK'S OFFICE