

MINUTES
ZONING BOARD OF APPEALS
July 20, 2016

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

ABSENT: MICHAEL BOSCO

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide

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
NEW ITEMS:

DECISIONS

| | | |
|---|--|-----------|
| LA BRUNA/WILLIAMS 128 Martin Place Pearl River, NY 68.20/ 3 / 4; RG zone | FRONT YARD VARIANCE APPROVED | ZBA#16-64 |
| DOMINIK HOME IMPROVEMENTS 49 Noyes Street Pearl River, N.Y. 69.18 / 2 / 34; R-15 zone | FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED | ZBA#16-65 |
| ZADORIN 14 Reld Drive Pearl River, N.Y. 69.09 / 4 / 11; R-15 zone | REAR YARD VARIANCE APPROVED | ZBA#16-66 |
| SLANE 68 Theodore Roosevelt Drive Blauvelt, NY 70.17 / 2 / 16; R-15 zone | FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED | ZBA#16-67 |
| KALINOSKI 85 West Washington Street Pearl River, NY 68.15 / 5 / 40; RG zone | FRONT YARD FENCE HEIGHT VARIANCE APPROVED | ZBA#16-68 |

TOWN CLERKS OFFICE

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TOWN OF CLAMBERTOWN

FANNING
163 East Washington Avenue
Pearl River, NY
68.16 / 5 / 57; R-15 zone

§ 3.11, R-80, COLUMN2 #7 ZBA#16-69
(CONVERSION OF MORE THAN 600 sq. ft.)
§ 4.52 SIGNIFICANT CHANGE TO
EXTERIOR WITHIN 10 YEARS; AND
§ 4.58 (OWNER MUST RESIDE IN
RESIDENCE FOR 15 YEARS) DENIED

KREIGER SUBDIVISION
27 Sunrise Lane
Pearl River, NY
69.18 / 3 / 43; R-15

FRONT YARD VARIANCE ZBA#16-70
FOR LOT #1 APPROVED

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 10:15 P.M.

Dated: July 20, 2016

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
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TOWN CLERKS OFFICE

DECISION

FRONT YARD VARIANCE APPROVED

To: William and Danielle LaBruna
128 Martin Place
Pearl River, New York 10965

ZBA #16-64
Date: July 20, 2016
Permit #45301

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 16-64: Application of William and Danielle LaBruna for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 3.12, Group Q, Column 8 (Front Yard: 25' required, 5' 11" existing & proposed) to replace an existing front porch and steps at an existing single family residence. The premises are located at 128 Martin Place, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 3, Lot 4; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

William LaBruna appeared and testified.

The following documents were presented:

1. Site plan with the existing front porch drawn on it.

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

On advice of Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

William LaBruna testified that they are replacing an existing front porch, steps and railing and were referred to the Zoning Board because the front yard setback is not being met by their non-conforming existing porch and steps; that they have owned the house for five years and are just rebuilding the porch as it exists.

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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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The front yard is not changing: the pre-existing non-conforming front yard is being acknowledged because the existing porch is in need of repair.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The front yard is not changing, the pre-existing non-conforming front yard is being acknowledged because the existing porch is in need of repair.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The front yard is not changing: the pre-existing non-conforming front yard is being acknowledged because the existing porch is in need of repair.
4. The requested front yard variance is not substantial.
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 front 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.

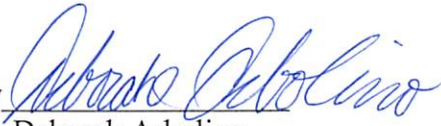
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The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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 CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

**FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES
APPROVED**

To: Wojciech Dominik
21 Buchanan Street
Pearl River, New York 10965

ZBA #16-65
Date: July 20, 2016
Permit #45430

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-65: Application of Dominik Home Improvements for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 26' proposed), 9 (Side Yard: 20' required, 18.8' proposed) and 12 (Building Height: 18.80' permitted, 25.33' proposed) for an addition to an existing single-family residence. The premises are located at 49 Noyes Street, Pearl River, New York and are identified on the Orangetown Tax Map as 69.18/ 2 / 34; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

Wojciech Dominik appeared and testified.

The following documents were presented:

1. Land Survey for Dominik Home Improvements, LLC dated April 21, 2016 signed and sealed by Robert E. Sorace.
2. Architectural plans dated 04/14/2015 with the latest revision date of 05/26/2016 signed and sealed by Robert Hoene, Architect.
3. A letter dated June 27, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated June 8, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated June 24, 2016 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 Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Wojciech Dominik testified that he purchased the house about three months ago; that he would like to make improvements to the house and sell it; that he is adding a second floor to have four bedrooms and two bathrooms and re-configuring the first floor; that the house presently has three bedrooms and one bath and will have four bedrooms and two baths when finished; that the front porch is causing one variance and the fireplace is

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causing the side yard variance; that the only change to the footprint is for the porch , fireplace and bay window on the first floor; and that the proposed front yard would be 26 feet.

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 building height variances 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 front yard, side yard and building height variances 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 variances.
4. The requested front yard, side yard and building height 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.
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 front yard, side yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE

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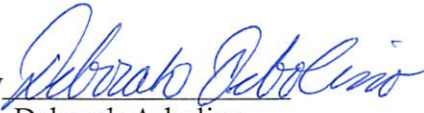
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard, side yard and building height variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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 CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

REAR YARD VARIANCE APPROVED

To: Jennifer Zadorin and Kevin Stengle
14 Reld Drive
Pearl River, New York 10965

ZBA #16-66
Date: July 20, 2016
Permit #45425

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-66: Application of Jennifer Zadorin and Kevin Stengle for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 11 (Rear Yard: 35' required, 16.45' proposed) for an addition to an existing single-family residence. The premises are located at 14 Reld Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 4, Lot 11; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

Jennifer Zadorin and Kevin Stengle appeared and testified.

The following documents were presented:

1. Architectural plans dated May 25, 2016 by Harry Goldstein, Architect, not signed or sealed.

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

On advice of Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Jennifer Zadorin testified that they are proposing to add a master bedroom and bath to the house; that they have owned the house for six years; that they have two children, aged 11 and 3; that presently they have only two bedrooms; that they are wedged between two churches and the neighborhood had many ranch style houses that have been expanded both up and out; that there is a house about three doors down from them that has already expanded in almost the same way that they are proposing; that their architect also designed that expansion; that they designed it this way so that they do not lose existing windows; and that the shed was there when they purchased the property and she will mark it on the survey.

TOWN CLERK'S OFFICE

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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 rear yard 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 area.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. 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 a variance.
4. The requested rear yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. 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 rear yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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 CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Jonathan Hodash (Slane)
60 South Main Street
New City, New York 10956

ZBA #16-67
Date: July 20, 2016
Permit #45035

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-67: Application of Martin Slane 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, 24.5' proposed) , and 12 (Building Height: 24.5' permitted, 30' proposed) for an addition to an existing single-family residence. The premises are located at 68 Theodore Roosevelt Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.17, Block 2, Lot 16; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

Martin Slane and Sarah Hollerman, for Hodash Associates, appeared and testified.

The following documents were presented:

1. Architectural plans dated May 29, 2015 with the latest revision date of May 17, 2016 signed and sealed by Jonathan Hodash, Architect (15 pages).
2. A letter dated June 14, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.
3. A letter dated June 24, 2016 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated July 6, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated July 20, 2016 from the County of Rockland Highway Department signed by Sonny Lin, 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 Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Sarah Hollerman testified that this application is for a single family residence that was built in 1963 and the Slane family purchased the house in 2004; that they have four children and one more on the way; that the family is well established in the neighborhood and do not want to move; they would like to enlarge the house to make it work for their expanding family; that they are proposing to add a front porch and a second floor; that the cause for the front yard variance is the designated street line according to section 5.11 the jog in the road causes the need for the variance; that the house is a raised ranch style

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house that is being changed to a colonial style house; that the stairs are higher to accommodate the change in style and because of the height of the stairs they are included in the front yard setback; and there are two front yards.

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 building height variances 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 and the oddly shaped lot makes the property unique.
2. The requested front yard and building height variances 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 and the oddly shaped lot makes the property unique.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances: the oddly shaped lot makes the property unique.
4. The requested front yard and building height 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.
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 front yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested front yard and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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 CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Laurie Kalinoski
85 West Washington Ave.
Pearl River, New York 10965

ZBA #16-68
Date: July 20, 2016
Permit #45448

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-68: Application of Laurie Kalinoski for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 5.226(Front Yard Fence Height: 4 ½' permitted, 6' proposed) for the installation of a six-foot high fence at an existing single-family residence. The premises are located at 85 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 5, Lot 40; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

Laurie Kalinoski appeared and testified.

The following documents were presented:

1. Site plan with proposed fence highlighted on it dated May 16, 2016 by Joanne Morisi DiLorenzo R:IA, LLA (not to scale).
2. Zoning Board of Appeals Decision #12-35 dated June 20, 2012.
3. A letter dated July 6, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated June 24, 2016 from the Rockland County Sewer District no. 1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated June 30, 2016 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
6. A letter dated July 20, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..
7. Two pictures of the property submitted by applicant.

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

On advice of Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Laurie Kalinoski testified that she has two front yards; that her backyard is Servern and the front yard is Washington; that she loves her neighbors but she has no privacy from the public; that she needs a barrier to keep people out of her property; and she submitted two pictures to the Board; that she would like to install a six-foot fence along the North Serve section of the road where her patio is and a split rail fence on the rest of the property to show a barrier and keep people from cutting through her property; and assured her neighbor that the privacy fence would not block views.

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Public Comment:

Carol Rickard, 73 North Serven Street, asked about where the fence would be placed and expressed concerns regarding the view and getting out of her driveway.

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 six foot privacy fence will not enclose the entire yard but will be combined with a four foot split rail fence; this combination will allow some privacy for the applicant without creating a wall around the property.
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 six foot privacy fence will not enclose the entire yard but will be combined with a four foot split rail fence; this combination will allow some privacy for the applicant without creating a wall around 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 a variance.
4. The requested front yard fence height variance, although somewhat substantial, affords 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 six foot privacy fence will not enclose the entire yard but will be combined with a four foot split rail fence; this combination will allow some privacy for the applicant without creating a wall around 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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested front yard fence 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 front yard fence height variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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 CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

**SECTION 3.11, R-80, COLUMN 2 #7, SECTION 4.52 AND SECTION 4.58
VARIANCES DENIED**

To: Daniel Fanning
163 East Washington Avenue
Pearl River, New York 10965

ZBA #16-69
Date: July 20, 2016
Permit #44505

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-69: Application of Daniel Fanning for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.11(refers to R-80 District) Column 2, #7 (Conversion of a detached, owner occupied, single-family dwelling so as to add 1 additional dwelling unit clearly subordinate to the main 1-family use to occupy not more than 600 square feet of floor area : 757 square feet proposed and subject to Section 4.5); 4.52: (No significant exterior change and no new structures built on the property within the last 10 years so as to create an additional dwelling unit: addition built within the last year); 4.58: (The owner who first converts the dwelling must have resided in said dwelling for at least 15 years), to convert an existing single-family residence pursuant to Section 4.5 (Local Law 7 of 1981). The premises are located at 163 East Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 57; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

Daniel Fanning appeared and testified.

The following documents were presented:

1. Site plan.
2. Architectural plans by Harry Goldstein.
3. A letter dated July 11, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated June 29, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated June 24, 2016 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated July 20, 2016 from the Rockland County highway Department signed by Sonny Lin, 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 Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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Daniel Fanning testified that he built the addition for his mother who passed away last December; that originally there was no kitchen but then his mom wanted a kitchen and Tim Harris added it; that he owns the property for two years; and that now it is a financial hardship.

Public Comment:

Steve Kaplan, 177 East Washington Avenue, Pearl River, testified that he is a neighbor; that the improvements that Dan has made on the property is a great improvement; that allowing the apartment does not insult the surrounding properties and if he needs to keep it for financial reasons he has no problem with it; that there are other multi-family units down the street.

Dan Sullivan, Chairman, explained that there are certain criteria that needs to be met for the Local Law 7; and that it was created to allow long time homeowners to convert existing space for an apartment in order to help with taxes, that it was not meant to be used for new property owners and he agrees with the Rockland County letter of disapproval because too many of the criteria cannot be met; and did tell the applicant that he could ask for a use variance that would be extremely difficult to get.

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 do not outweigh the detriment to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested § 3.11, R-80 District, Column 2 #7, § 4.52 and § 4.58 variances will produce an undesirable change in the character of the neighborhood and a detriment to nearby properties. The criteria set forth by the Town in Section 4.5 define size of the second unit, residency requirements, parking and entrance specifications to ensure that the residence maintains its single family appearance, and provides safe conditions. The applicant is seeking variances for a larger than permitted unit, the applicant does not come close to meeting the residency requirements and has recently constructed the two-story garage with the apartment unit, thereby significantly changing the exterior of the building. Therefore the Board cannot grant these variances without undermining the intent of Section 4.5.

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2. The requested § 3.11, R-80 District, Column 2 #7, § 4.52 and § 4.58 variances will have an adverse effect and impact on the physical or environmental conditions in the neighborhood or district. The criteria set forth by the Town in Section 4.5 define size of the second unit, residency requirements, parking and entrance specifications to ensure that the residence maintains its single family appearance, and provides safe conditions. The applicant is seeking variances for a larger than permitted unit, the applicant does not come close to meeting the residency requirements and has recently constructed the two-story garage with the apartment unit, thereby significantly changing the exterior of the building. Therefore the Board cannot grant these variances without undermining the intent of Section 4.5.
3. The requested § 3.11, R-80 District, Column 2 #7, § 4.52 and § 4.58 variances are too substantial to consider without undermining the intent of Section 4.5.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested § 3.11, R-80 District, Column 2 #7, § 4.52 and § 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.
- (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 DENY the application for the requested § 3.11, R-80 District, Column 2 #7, § 4.52 and § 4.58 variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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-R.A.O.

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

FRONT YARD VARIANCE FOR LOT #1 APPROVED

To: Donald Brenner (Kreiger Subdivision)
4 Independence Avenue
Tappan, New York 10983

ZBA #16-70
Date: July 20, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-70: Application of Kreiger Subdivision for a variance 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, 23.4' existing) for Lot #1 of a proposed two-lot residential subdivision. The premises are located at 27 Sunrise Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 43; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 20, 2016 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plan labeled " Minor Subdivision for State of Lorraine C. Kreiger" dated May 6, 2016 signed and sealed by Robert E. Sorace, PLS.
2. A memorandum dated June 22, 2016 from John Giardiello P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
3. A letter dated June 28, 2016 (also submitted to the Planning Board) submitted by Paul A. Hraska, an abutting property owner.

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

On advice of Dennis Michaels, 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 June 22, 2016 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; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were absent.

Donald Brenner testified that his client is the executor for the estate and she is trying to subdivide the property to sell two lots and close out he estate; that they have received final subdivision approval with the condition that they get the front yard variance for the existing house on lot #1; that they are not proposing any construction and the Planning Board Decision specifically states that the person purchasing lot #2 must appear before the land use boards for approval to build.

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TOWN ENGINEERING OFFICE

Public Comment:

Paul A Hraska, 37 E. Naurashaun Avenue stated that he submitted a letter and would like it read into the record; that he is concerned about the developments impact on his property.

Dennis Michaels, Deputy Town Attorney, read the letter into the record.

Dan Sullivan, Chairman, explained to Mr. Hraska that the applicant is before the Zoning board for a front yard variance for the existing house only; and that they will get notified again when development is proposed for the lot.

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 variance for lot #1 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The variance request is being triggered by the subdivision request, the house has existed in its present location for many years.
2. The requested front yard variance for lot #1 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The variance request is being triggered by the subdivision request, the house has existed in its present location for many years.
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 variance for lot #1, 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 variance request is being triggered by the subdivision request, the house has existed in its present location for many years.
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 front yard variance for lot #1 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 front yard variance for lot #1 was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 20, 2016

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-N.A.

TOWN CLERK
HIGHWAY DEPARTMENT
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2016 AUG 8 PM 12 49
TOWN CLERKS OFFICE