

MINUTES
ZONING BOARD OF APPEALS
April 2, 2014

MEMBERS PRESENT:

JOAN SALOMON
PATRICIA CASTELLI
MICHAEL BOSCO
THOMAS QUINN
DANIEL SULLIVAN, CHAIRMAN
LEONARD FEROLDI, ALTERNATE

ABSENT: NONE

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:

APPLICANTS

PUBLISHED ITEMS

DECISIONS

CONTINUED ITEM:

LSI SERVICES
76.08 / 1 / 1; LIO zone

POSTPONED

ZBA#13-80

NEW ITEMS:

KENNEY
69.10 / 1 / 3; R-15 zone

SIDE YARD, TOTAL ZBA#14-23
SIDE YARD AND BUILDING
HEIGHT VARIANCES APPROVED

MAGEE
69.14 / 3 / 34; R-15 zone

FLOOR AREA RATIO, ZBA#14-24
FRONT YARD, SIDE YARD,
TOTAL SIDE YARD
VARIANCES APPROVED

TOWN CLERKS OFFICE

2014 APR 18 PM 12 04

TOWN OF ORANGETOWN

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 applications: Lewis Avenue Subdivision Site Plan, 227 Main Street, Pearl River, N.Y. 68.12 / 1 / 51; RG zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:00 P.M.

Dated: April 2, 2014

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
2014 APR 18 PM 12 04
TOWN CLERKS OFFICE

DECISION

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

To: Richard Kenney
64 Villa Road
Pearl River, New York 10965

ZBA # 14-23
Date: April 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-23: Application of Richard Kenney for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, Group M, R-15 District, Columns 9 (Side Yard: 20' required, 13.6' existing and 9' proposed), 10 (Total Side Yard: 50' required, 41.8' existing and 33' proposed), and 12 (Building Height: 13'6" permitted, 16' 4" proposed) for an addition to an existing residence. The premises are located at 64 Villa Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 3; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 2, 2014 at which time the Board made the determination hereinafter set forth.

Richard Kenney appeared and testified.

The following documents were presented:

1. Architectural plans dated 11/15/2012 by Harry Goldstein, Architect. (2 pages)
2. Survey dated February 21, 2014 by Anthony Sorace, P.L.S..
3. Four letters from abutting property owners in support of the application.

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. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, ayc; and Mr. Quinn, aye; and Mr. Sullivan, aye.

Richard Kenney testified that he has a split cape style house; that the house is old and in need of repairs; that the garage side of the house is set back and they would like to make it even with the front of the house; that they are removing the second story of the house and rebuilding it; that they are proposing a front porch and the existing screened-in porch in the rear of the house would be removed and replaced with a great room; that the great room would be three feet longer and two feet wider than the existing screened-in porch; that the house sits at an angle to the property line; that he has owned the house for twelve years; and that they are hoping to make it into their dream home.

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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. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The house was originally constructed at a slight angle to the property lines. Similar additions have been constructed in the area.
2. The requested side yard, total 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. The house was originally constructed at a slight angle to the property lines. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard, total side yard and building height variances are 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.

TOWN CLERKS OFFICE
2014 APR 18 PM 12 04
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, total 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 side yard, total side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Quinn, aye; and Mr. Sullivan, aye.

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: April 2, 2014

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
2014 APR 18 PM 12 04
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND TOTAL SIDE YARD
VARIANCES APPROVED**

To: Stephen Magee
243 Edsall Terrace
Pearl River, New York 10965

ZBA # 14-24
Date: April 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-24: Application of Stephen Magee for a variance from Chapter 43 (Zoning) of the Orangetown Code, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .262 proposed), 8 (Front Yard: 30' required, 26.7' granted in ZBA#13-70 dated 9/25/2013), 9 (Side Yard: 20' required, 19.4' proposed) and 10 (Total Side Yard: 50' required, 43.6' proposed) for an addition to an existing single-family residence. The premises are located at 243 Edsall Terrace, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 3, Lot 34; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 2, 2014 at which time the Board made the determination hereinafter set forth.

Stephen Magee appeared and testified.

The following documents were presented:

1. Architectural plans dated 11/20/2013 with the latest revision date of 02/17/ 2014 signed and sealed by Barbara Hess, Architect. (7 pages)
2. Survey dated January 20, 2014 signed and sealed by Anthony R. Celentano, P.L.S..

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

Stephen Magee testified that he is requesting to put an extension on his home; that he came before the Board last year to add a portico in the front of the house but never did that small addition; that he would like to add a bedroom and expand the kitchen and living areas at the same time that the portico is added; that he purchased the house in 2012 and the house is small for his family of four; and that the property is pie shaped.

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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 floor area ratio, front yard, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area and the property is pie shaped, narrower in the rear where the majority of the addition is proposed.
2. The requested floor area ratio, front yard, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area and the property is pie shaped, narrower in the rear where the majority of the addition is proposed.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard, side yard, and total side yard variances, 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. Similar additions have been constructed in the area and the property is pie shaped, narrower in the rear where the majority of the addition is proposed.
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
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TOWN CLERKS 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, front yard, side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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: April 2, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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TOWN CLERK
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN