

MINUTES
ZONING BOARD OF APPEALS
APRIL 3, 2013

MEMBERS PRESENT:

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

ABSENT:

NANETTE ALBANESE

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

DECISIONS

NEW ITEMS:

115 ROUTE 303 77.07 / 2 / 1; LO zone	CONTINUED	ZBA#13-21
SULLIVAN 64.20 / 1 / 6.2; R-40 zone	REAR YARD VARIANCE APPROVED	ZBA#13-22
FERMAINTT 77.06 / 2 / 45; R-15 zone	CONTINUED FOR DRAINAGE PLAN	ZBA#13-23
FALLON 70.14 / 3 / 54; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#13-24

TOWN CLERKS OFFICE

2013 APR 22 PM 2 25

TOWN OF ORANGECETOWN

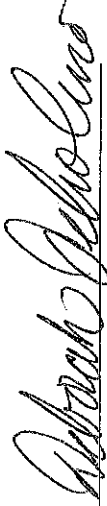
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 9:20 P.M.

Dated: April 3, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
ASSESSOR
HIGHWAY DEPARTMENT
SUPERVISOR
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
Rockland County Planning

TOWN OF ORANGETOWN
2013 APR 22 PM 2 25
TOWN CLERKS OFFICE

DECISION
REAR YARD VARIANCE APPROVED

To: Michael and Pauline O'Sullivan
277 Sickletown Road
Orangeburg, New York 10962

ZBA # 13-22
Date: April 3, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-22: Application of Michael and Pauline O'Sullivan for a variance from Chapter 43 (Zoning) Town of Orangetown, Section 3.12, R-40 District, Group E, Column 11 (Rear yard: 50' required, 10' proposed) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 277 Sickletown Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 64.20, Block 1, Lot 6.2; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 3, 2013 at which time the Board made the determination hereinafter set forth.

Michael and Pauline O'Sullivan and Mando Insignares, Cool Pool, appeared and testified.

The following documents were presented:

1. Land survey dated 3/6/2006 signed and sealed by Robert Sorace, P.L.S. with the proposed pool drawn on the plan.
2. Three pages of pool plans dated 12/12/12 signed and sealed by John Petroccione, P.E.
3. A letter dated March 28, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, Commissioner of Planning.
4. A letter dated March 4, 2013 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. One letter in support of the application by the Paul Rowley.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon 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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Mr. Bosco, aye. Ms. Castelli was absent for this hearing. Ms. Albanese was absent.

Michael O'Sullivan testified that they would like to install a pool in the backyard; that the house is hooked up to Orangetown sewers; that there are U.S. Army Corps. designated wetlands behind the house; that there is an existing patio in the rear of the house that they extended and do not want to disturb it; and that he has a letter of support from his neighbor to the rear whose property is closest to the pool.

TOWN CLERKS OFFICE

2013 APR 22 PM 2 25

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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property directly behind the house is designated wetlands that cannot be developed, because of this, the rear setback exception for the installation of the pool will not affect anyone negatively.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property directly behind the house is designated wetlands that cannot be developed, because of this, the rear setback exception for the installation of the pool will not affect anyone negatively.
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 house is set back on the property and was built at an angle with the property line, which leaves a small rear yard.
4. The requested rear yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The house is set back on the property and was built at an angle with the property line, which leaves a small rear yard.
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
2013 APR 24 PM 2 25
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 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.

TOWN CLERKS OFFICE

2013 APR 22 PM 2 25

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Bosco, aye; and Ms. Salomon, aye. Ms. Castelli was absent for this hearing. Ms. Albanese 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: April 3, 2013

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
O&ZPAE
BUILDING INSPECTOR -R.A.O.

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

TOWN CLERKS OFFICE

2013 APR 22 PM 2 25

TOWN OF ORANGETOWN

DECISION
SIDE YARD VARIANCE APPROVED

To: Mike and Maureen Fallon
52 Hayes Street
Blauvelt, New York 10913

ZBA # 13-24
Date: April 3, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-24: Application of Michael and Maureen Fallon for a variance from Chapter 43 (Zoning) Town of Orangetown, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 15' proposed) for an addition at an existing single-family residence. The premises are located at 52 Hayes Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.14, Block 3, Lot 54; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 3, 2013 at which time the Board made the determination hereinafter set forth.

Mike and Maureen Fallon appeared and testified.

The following documents were presented:

1. Survey dated July 1, 1955 with the proposed addition drawn on it.
2. Architectural plans dated January 31, 2013 signed and sealed by Harry Goldstein, Architect.
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. Salomon 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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Bosco, aye. Ms. Albanese was absent.

Mike Fallon testified that they would like to extend into the rear yard 18' for a family room; that the property is a corner lot with two front yards; that they have a large extended family; that they have owned the house for thirteen years; that there is a 10' x10' shed in the rear yard and that they plan to stay in the house when they retire.

TOWN CLERKS OFFICE

2013 APR 22 PM 2 25

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' lot is a corner lot with two front yards and the addition is proposed in the rear of the house; which is labeled a side yard because of the two front yards.
2. The requested side 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 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 side yard variance is not substantial. The applicants' lot is a corner lot with two front yards and the addition is proposed in the rear of the house; which is labeled a side yard because of the two front yards.
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

2013 APR 22 PM 2 25

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 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 CLERKS OFFICE
2013 APR 22 PM 2 25
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Bosco, aye. Ms. Albanese 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: April 3, 2013

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
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2013 APR 22 PM 2 25
TOWN CLERKS OFFICE