

MINUTES
ZONING BOARD OF APPEALS
FEBRUARY 18, 2015

MEMBERS PRESENT: JOAN SALOMON
 MICHAEL BOSCO
 THOMAS QUINN
 LEONARD FEROLDI, ALTERNATE
 PATRICIA CASTELLI

ABSENT: DAN SULLIVAN

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 Ms. Castelli, Acting Chair.
Hearings on this meeting's agenda, which are made a part of this meeting, were held
noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

SAMBROTTO SUBDIVISION 34 Clausland Mountain Road, Blauvelt, NY 70.15 / 2 / 11; R-40 zone	LOT AREA VARIANCES FOR LOT #1 \$ #2; FRONT YARD AND SIDE YARD FOR LOT #1	ZBA#15-11
MOSCATO 9 Eimer Street, Tappan, NY 77.08 / 1 / 49; RG zone	FRONT YARD VARIANCE APPROVED	ZBA#15-12
GARRECHT 107 Pine Tree Lane, Tappan, NY 77.07 / 2 / 48; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#15-13
WYNNE 40 Bogert Avenue, Pearl River, NY 68.16 / 3 / 6; RG zone	CONTINUED	ZBA#15-14
CANZONERI 16 Sparkill Avenue, Tappan, NY 77.08 / 3 / 84; R-15 zone	LOCAL LAW#7 SECTION 4.54 AND 3.11, COLUMN 2 VARIANCES APPROVED	ZBA#15-15
NAVAC BUILDERS STORAGE PERFORMANCE STANDARDS 11 Highview Avenue, Orangeburg, NY 74.11 / 1 / 24; LI zone	PERFORMANCE STANDARDS APPROVED	ZBA#15-16

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 11
TOWN CLERKS OFFICE

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: 929 Route 9W (repair retaining wall), Upper Grandview, NY; 71.13 / 1 / 12; R-22 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 9:45 P.M.

Dated: February 18, 2015

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
2015 MAR 11 PM 1 11
TOWN CLERKS OFFICE

DECISION
**LOT AREA VARIANCES FOR LOTS #1 & #2 AND FRONT YARD AND SIDE
YARD VARIANCES FOR LOT #1 APPROVED**

To: Jay Greenwell, PLS (Sambrotto)
85 Lafayette Avenue
Suffern, New York 10901

ZBA #15-11
Date: February 18, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-11: Application of Sambrotto Subdivision for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-40 District, Group E, Columns 5 (Lot Area: 40,000 sq. ft. required, 35, 691 proposed for lot #1; 35,283 sq. ft. for lot #2), 8 (Front Yard: 50' required, 9.3' existing to the existing garage on lot #1), and 9 (Side Yard: 30' required, 11' existing to existing garage on lot #1) for a proposed two- lot residential subdivision. The premises are located at 34 Clausland Mountain Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.15, Block 2, Lot 11; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 18, 2015 at which time the Board made the determination hereinafter set forth.

Jay Greenwell and Ray Sambrotto appeared and testified.

The following documents were presented:

1. Subdivision plan labeled "Subdivision of property for Sambrotto" dated 9/12/2014 with the latest revision date of 01/13 /2015 signed and sealed by Jay A. Greenwell, PLS, Robert E. Sorace, PLS (pg. 1) and Edward A Maikish, P.E. and Jay A. Greenwell, PLS (pg. 2).
2. A letter dated February 5, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated February 18, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

Ms. Castelli, Acting Chair, 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, Ms. Castelli 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 this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3), and since the Planning Board conducted a SEQRA review and on December 10, 2014, rendered an environmental determination of **no** significant adverse environmental impacts to result from the proposed land use action (i.e., a "Negative Declaration" or "Neg. Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulation § 617,6 (b)(3). The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Mr. Sullivan was absent.

Jay Greenwell testified that Ray hired him to work with Bob Sorace; that Bob doesn't like to do the meetings; that they will stipulate to all of the comments in the letters from the County Health, Planning and highway Departments; that the lots become slightly undersized when the steep slope reduction is taken into consideration; that the existing

TOWN OF ORANGETOWN

2015 FEB 11 PM 1:11

TOWN CLERK'S OFFICE

garage is already non-conforming for the front yard and the new lot line will create a need for a side yard variance also; that they are installing French drains, a culvert under the new proposed driveway and drywells; that the house is on proposed lot #1; that the driveway will be paved; and that they will meet the 0% net run-off requirement.

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.

Ms. Castelli 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 lot area variances for lot #1 and Lot #2, and the front yard and side yard variances for lot #1, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The reduction for steep slope requirements are causing the lot area variances, not the actual size of the lots, and the front yard and side yard requests are for an existing structure.
2. The requested lot area variances for lot #1 and #2, and the front yard and side yard variances for lot #1, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The reduction for steep slope requirements are causing the lot area variances, not the actual size of the lots, and the front yard and side yard requests are for an existing structure.
3. The benefits sought by the applicant cannot be achieved by other means feasible the applicant to pursue other than by obtaining variances. The reduction for steep slope requirements are causing the lot area variances, not the actual size of the lots, and the front yard and side yard requests are for an existing structure.
4. The requested lot area variances for lot #1 and #2 are not substantial. The requested front yard and side yard variances 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.
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
2015 MAR 11 PM 1:11
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 lot area variances for lot #1 and #2, and the front yard and side yard variances for lot #1, 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
2015 MAR 11 PM 1 12
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested lot area variances for lot #1 and #2, and the front yard and side yard variances for lot #1, was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan 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: February 18, 2015

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

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 12
TOWN CLERKS OFFICE

DECISION
FRONT YARD VARIANCE APPROVED

To: Douglas Moscato
2 West Lawrence Park Drive
Unit #8
Piermont, New York 10968

ZBA #15-12
Date: February 18, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-12: Application of Douglas Moscato for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, Group Q, RG District, Column 8 (Front Yard: 25' required, 19.1' proposed) for an existing porch at an existing single-family residence. The premises are located at 9 Eimer Street, Tappan New York and are identified on the Orangetown Tax Map as Section 77.08, Block 1, Lot 49; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 18, 2015 at which time the Board made the determination hereinafter set forth.

Douglas and Christine Moscato appeared and testified.

The following documents were presented:

1. Copies of architectural plans and site plan dated July 15, 2002 signed and sealed by Robert Hoene, Architect. (1 page)

Ms. Castelli, Acting Chair, 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, Ms. Castelli 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. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Bosco, aye. Mr. Sullivan was absent.

Douglas Moscato testified that they purchased the house in 2004 with the existing front porch; that the title came back with "no violation"; that they refinanced the house and there was "no violation"; that they are selling the house and the title search came back with a violation because the previous owner built the existing front porch without a permit; that the porch was not shown on the original survey that they used when they purchased the house; and that they have a certificate of occupancy for the deck that they built and it is not the same deck that is shown on the architectural plans for the porch.

TOWN CLERKS OFFICE
2015 MAR 11 PM 1 12
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.

Ms. Castelli 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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The porch was built by a previous owner without a variance and the present owners are correcting the error.
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 porch was built by a previous owner without a variance and the present owners are correcting the error.
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. The porch was built by a previous owner without a variance and the present owners are correcting the error.
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.

TOWN CLERKS OFFICE
2015 MAR 11 PM 1 12
TOWN OF ORANGETOWN

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.

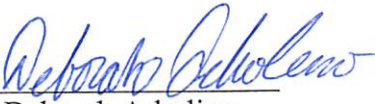
TOWN CLERKS OFFICE
2015 MAR 11 PM 1 12
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan 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: February 18, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -G.M.

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

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 12
TOWN CLERKS OFFICE

DECISION
FRONT YARD VARIANCE APPROVED

To: George and Jessica Garrecht
107 Pine Tree Lane
Tappan, New York 10983

ZBA #15-13
Date: February 18, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-13: Application of George and Jessica Garrecht for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 28' proposed) for a front porch addition to a single-family residence. The premises are located at 107 Pine Tree Lane, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.07, Block 2, Lot 48; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 18, 2015 at which time the Board made the determination hereinafter set forth.

George and Jessica Garrecht appeared and testified.

The following documents were presented:

1. A copy of a survey for Old Mill Park Estates dated August 8, 1957 by William C. Yuda, PLS. with the proposed front porch drawn on it.
2. A letter dated February 3, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated February 11, 2015 from the County of Rockland Department of highways signed by Sonny Lin, P.E..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Mr. Sullivan was absent.

George Garrecht testified that they purchased their house in 2010; that the steps to enter the house were constructed with wood, that the wood is not in very good shape; that they would like to create a new entrance to the house with a 8' by 24' front porch that would tie into the existing roof; that they have two young girls that they could watch playing in the yard from the porch; that the front porch would help to distinguish the house from the others on the block because they all look very similar; and that they saw the porch built on to a house similar to their house on Old Mill Road.

TOWN CLERKS OFFICE
2015 MAR 11 PM 1 12
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.

Ms. Castelli 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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other properties in the area have similar front porches.
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. Similar porches have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. Other properties in the area have similar front porches.
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.

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 12
TOWN CLERKS OFFICE

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.

TOWN CLERKS OFFICE

2015 MAR 11 PM 1 12


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan 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: February 18, 2015

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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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 12
TOWN CLERKS OFFICE

DECISION
SECTIONS 4.5 & 4.54 VARIANCES APPROVED

To: Leo and Theresa Canzoneri
16 Sparkill Avenue
Tappan, New York 10983

ZBA #15-15
Date: February 18, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-15: Application of Leo and Theresa Canzoneri for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, R-15 refers to R-80 District (Part I) 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 sq. ft. of floor area; 645.75 sq. ft. existing: subject to Section 4.5 a/k/a Local Law #7 (of 1981)) and from Section 4.54 (There shall be only a single front entrance to the dwelling: two doors exist) for an owner occupied single-family conversion at an existing single-family dwelling with an existing Section 4.5 accessory apartment (Local Law #7 f 1981). The premises are located at 16 Sparkill Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 3, Lot 84; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 18, 2015 at which time the Board made the determination hereinafter set forth.

Guy Massa, brother of Theresa, appeared and testified.

The following documents were presented:

1. Copy of site plan dated October 26, 1966. (1 page).
2. A hand drawing of the proposed space for the subordinate dwelling unit.
3. Quote report for Andersen windows.
4. A certificate of occupancy for the installation of an entry door at the lower level of a one family dwelling dated December 3, 1992.
5. A restrictive covenant dated 11/14/2014 Instrument Number-2014-00030790 filed with the Rockland County Clerk by Theresa and Leo J Canzoneri, 16 Sparkill Avenue, Tappan, New York.
6. A letter dated February 4, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A letter dated February 18, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
8. A letter dated January 20, 2015 from the County of Rockland Department of Health signed by Scott Mc Kane, P.E..
9. A letter dated January 28, 2015 from the County of Rockland Sewer District No.1 signed by Joseph La Fiandra, Engineer II.

Ms. Castelli, Acting Chair, 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, Ms. Castelli 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. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Mr. Sullivan was absent.

TOWN CLERKS OFFICE

2015 MAR 11 PM 1 13

TOWN OF ORANGETOWN

Guy Massa testified that his sister and brother-in-law have owned the house since 1966; that they have a certificate of occupancy for the second front door; that the apartment is 45.75 sq. ft. bigger than is permitted; that it would be difficult to make the apartment the right size, without wasting that 45 sq. ft.; that they have installed the proper size window for egress code; that the electric has been inspected; and the covenant has been filed with the County Clerk.

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 local law #7 (of 1981) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has had two front doors since 1992 and the request for an additional 45.75 sq. ft. in the apartment is a minor request. The required covenant for Local Law #7 (of 1981) has been filed at the Rockland County Clerk's office instrument number 2014-00030790 dated 11/14/2014.
2. The requested local law #7 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has had two front doors since 1992 and the request for an additional 45.75 sq. ft. in the apartment is a minor request. The required covenant for Local Law #7 (of 1981) has been filed at the Rockland County Clerk's office instrument number 2014-00030790 dated 11/14/2014.
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 applicant has had two front doors since 1992 and the request for an additional 45.75 sq. ft. in the apartment is a minor request. The required covenant for Local Law # 7 (of 1981) has been filed at the Rockland County Clerk's office instrument number 2014-00030790 dated 11/14/2014.
4. The requested local law #7 (of 1981) variances are not substantial.

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 13
TOWN CLERKS OFFICE

5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Local Law #7(of 1981) variances are APPROVED with the acknowledgement that; (1) The required covenant for Local Law # 7(of 1981) has been filed at the Rockland County Clerk's office as instrument number 2014-00030790 dated 11/14/2014; 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 sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

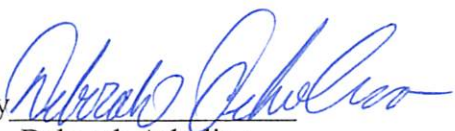
TOWN OF ORANGETOWN
2015 MAR 11 PM 1:13
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested Local Law #7 (of 1981) variances, with the acknowledgement that the required covenant for Local Law # 7(of 1981) has been filed at the Rockland County Clerk's office as instrument number 2014-00030790 dated 11/14/2014; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan 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: February 18, 2015

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
2015 MAR 11 PM 1 13
TOWN CLERKS OFFICE

DECISION
PERFORMANCE STANDARDS APPROVED WITH CONDCTIONS

To: Killian Hunt (Navac Builders)
25 So. Greenbush Road
Orangeburg, New York 10962

ZBA #15-16
Date: February 18, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-16: Application of Navac Builders Storage for Performance Standards Review from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 4.12 for storage and fabrication of reclaimed lumber, plywood and other wood products that will be assembled at various project sites. The building is located at 11 Highview Avenue, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.11, Block 1, Lot 24; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 18, 2015 at which time the Board made the determination hereinafter set forth.

Killian Hunt appeared and testified.

The following documents were presented:

1. Building plan layout for Navac Builders Inc. by Triad Design Collaborative, Inc.(1 page)
2. A copy of a survey map for Midtown Holding Inc. dated January 20, 2004 by Robert R. Rahnefeld, PLS..
3. Performance standards resume of operations and equipment dated January 14, 2015.
4. Fire Prevention Supplement.
5. A letter dated February 5, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated January 28, 2015 from the County of Rockland Drainage Agency signed by Vincent Altieri.
7. A letter dated January 22, 2015 from the Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Town of Orangetown.
8. A memorandum dated February 5, 2015 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §61.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Mr. Sullivan was absent.

Killian Hunt testified that he is a general contractor and he has offices at 25 South Greenbush; and would like to use 11 Highview for storage and fabrication; that the building is a big metal shed without heat; that they would be using it to store reclaimed wood and tools and for fabrication when it is warmer; that the drivers will be at the building every morning to load to tools and supplies and every evening to unload; that they will use the building to put together modular storefronts and then they will be taken apart loaded up and shipped.

TOWN OF ORANGETOWN
2015 MAR 11 PM 1:13
TOWN CLERKS OFFICE

The Performance Standards Resume of Operations and Equipment, and the Fire Prevention Supplement completed by the applicant were thereupon reviewed in detail.

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated January 22, 2015 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated February 5, 2015 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents submitted, the Board: RESOLVED, that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, Town of Orangetown B.F.P., dated February 5, 2015; and (2) that the Applicant adhere to all of the requirements set forth by the report dated January 22, 2015 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown; 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.

TOWN CLERKS OFFICE
2015 MAR 11 PM 1 13
TOWN OF ORANGETOWN

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.

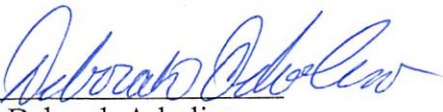
TOWN CLERKS OFFICE
2015 MAR 11 PM 1 13
TOWN OF ORANGETOWN

The foregoing Resolution to approve, with the foregoing conditions, the application for the requested Performance Standards Review was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan 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: February 18, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT	TOWN CLERK
ZBA MEMBERS	HIGHWAY DEPARTMENT
SUPERVISOR	ASSESSOR
TOWN BOARD MEMBERS	DEPT. of ENVIRONMENTAL
TOWN ATTORNEY	MGMT. and ENGINEERING
DEPUTY TOWN ATTORNEY	FILE,ZBA, PB
OBZPAE	CHAIRMAN, ZBA, PB, ACABOR
BUILDING INSPECTOR –B.vW. reassign to Mike Manzare	

TOWN OF ORANGETOWN
2015 MAR 11 PM 1 13
TOWN CLERKS OFFICE