

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: St. Thomas College-Kraus Fitness Center Site Plan ; 125 Route 340, Sparkill, NY ; 74.16 / 1 / 1; R-40 zone; Pfizer Subdivision Plan; 401 Middletown Road, Pearl River, N.Y. 68.08 / 1 / 1; LI & LIO zone; Grace Tabernacle Site Plan; 617 Main Street, Sparkill, N.Y. 77.08 / 5 / 41; CS 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 9:00 P.M.

Dated: February 19, 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 MAR 7 AM 9 34
TOWN CLERKS OFFICE

DECISION

**FRONT YARD FENCE HEIGHT AND FRONT YARD ACCESSORY
STRUCTURE VARIANCES DENIED**

To: Roger Lippoth
25 Robertson Drive
Pearl River, New York 10965

ZBA # 14-11
Date: February 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-11: Application of Roger Lippoth for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 5.226 (Front Yard Fence: 4 ½' permitted; 6' proposed) and from Section 5.153 (Accessory Structure: no accessory structure is permitted in the front yard; shed is existing in front yard) at an existing residence. The premises are located at 25 Robertson Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 4, Lot 25; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 19, 2014 at which time the Board made the determination hereinafter set forth.

Roger Lippoth and William Gerard, Attorney, appeared and testified.

The following documents were presented:

1. Copy of survey dated 05/14/2013 by Jay Greenwell, PLS.

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

William Gerard, Attorney, testified that they are before the Board to legalize an existing front yard fence and shed; that these items have existed for about 18 years; that Mr. Lippoth has dogs and in 2008 one of the dogs was found to be a dangerous dog; that the court ordered items to be removed from the property and to make sure that the dog could not get out of the property; that the property has three front yards; and the shed in connection to the house is in the side yard but because of the three front yards, it is also a front yard; that Mr. Lippoth said he went through the process of getting a building permit for the shed and had several inspections but did not get the final inspection; that when it went through the process the problem of the three front yards was not picked up; that a portion of the shed and fence are in the Town right-of-way and they would be willing to get permission from the highway department; and that his client is trying to legalize these items.

Roger Lippoth testified that the shed has existed since 1996; that it is located in the side yard if you orient it to the front door on the house; that the posts for the fence are dug into the ground at least two feet deep; that he is not well enough to move the fence right now; and that he loves his dog.

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TOWN CLERK'S OFFICE

Public Comment:

Janice Thom, 50 Robertson Drive, testified that she lives next door to the applicant, closer to Village Drive; that she saw the shed being built ten years ago; that Rick Oliver and Paul Witte were contacted; that the shed is taller rather than wide; that it is an eyesore; that three years ago he was told to remove it; that eight years later they are still trying to get rid of it; that the fence is in bad shape and would not hold back a small dog if it wanted to get out; that the applicant has about eight dogs now; that he has tenants and there is a doggy door that allows the dogs to go in and out as they please; that there are many violations on the property; that the fence should be replaced and moved back; that there are seven houses on the street and this one is an eyesore; and that there are many tickets issued for the shed and the height of the fence.

Patricia Scholz, 354 Erhardt Road, next to the Medical Arts Building, testified that she agrees with everything her neighbor just stated; that she has lived here for seventy years; that this house is a problem; that there have been many complaints about the dogs; that the applicant should have to construct a new safer fence set back from the road; that she is afraid that one of the dogs will get out and hurt a child; and that there is an old school bus on the property and cars.

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 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 applicant constructed a six-foot fence and an accessory structure in the front yard without a building permit and both the fence and the accessory structure have caused an undesirable change in the character of the neighborhood and a detriment to nearby properties.
2. The front yard fence height and front yard accessory structure have had an adverse effect and impact on the physical and environmental conditions in the neighborhood or district.
3. The applicant has been charged with violations of the Orangetown Zoning Code for several years and the non-conforming fence and accessory structure should be removed or brought into compliance.
4. The variances sought are somewhat substantial, but do NOT outweigh the detriment to the health, safety and welfare of the neighborhood or community.
5. The Applicant's hardships are self-created, which was a significant factor considered by the Board.

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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 front yard fence height and front yard accessory structure variances are 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.

(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 DENY the application for the requested front yard fence height and front yard accessory structure variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Bosco, 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 19, 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 -B.v.W.

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

TOWN CLERKS OFFICE
2014 MAR 7 AM 9 35
TOWN OF ORANGETOWN

DECISION
PERFORMANCE STANDARDS APPROVED

To: Richard Neely (Aerco Emergency Generator)
745 West Nyack Road
West Nyack, New York 10994

ZBA # 14-12
Date: February 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-12: Application of Aerco International for a review from Chapter 43 (Zoning) of the Town of Orangetown Code, Section 4.12 Performance Standards Review of a 150 kw natural gas emergency generator. The premises are located at 100 Oritani Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 1.12 in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 19, 2014 at which time the Board made the determination hereinafter set forth.

Richard Neely appeared and testified.

The following documents were presented:

1. Aerco International Emergency Generator Location plan labeled drawing number C-100 (1 page).
2. A generator installation site plan dated 12/06/2013 Vista Electrical Contractors, Inc.
3. A color site plan of Bradley Corporate Park.
4. Generator Specification sheets labeled Kinsley Power Systems dated November 12, 2013.
5. Performance standards resume of operation and equipment form dated January 8, 2014.
6. Fire prevention supplement form.
7. A letter dated January 22, 2014 from the Town of Orangetown, Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Commissioner.
8. A letter dated January 16, 2014 from the Town of Orangetown, Bureau of Fire Prevention signed by Michael B. Bettmann, Chief Fire Inspector.
9. A letter dated February 7, 2014 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
10. A letter dated January 17, 2014 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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 based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, 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) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Bosco, aye. Mr. Sullivan was absent.

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

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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.

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 the documents presented, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated January 22, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to Orangetown Zoning Code § 4.1 Performance Standards, and the memorandum dated January 16, 2014 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, 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 presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown B.F.P.; **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, Performance Standards, 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.

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(ii) Any approval of a variance, performance Standards, 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, Performance Standards, 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, Performance Standards, 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, with aforesaid conditions, the application for Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Bosco; 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 19, 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 -R.A.O..

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

TOWN CLERKS OFFICE
2014 MAR 7 AM 9 35
TOWN OF ORANGETOWN

DECISION

FRONT YARD VARIANCE APPROVED

To: Shannon and Diane Payne
60 Cobble Place
Blauvelt, New York 10913

ZBA # 14-13
Date: February 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-13: Application of Shannon and Diane Payne for a variance from Chapter 43 (Zoning) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, column 8 (Front Yard: 30' required, 27' proposed) for an addition to an existing single-family residence. The premises are located at 60 Cobble Place, Blauvelt, New York are identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 68 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 19, 2014 at which time the Board made the determination hereinafter set forth.

Shannon and Diane Payne appeared and testified.

The following documents were presented:

1. Architectural plans dated 10/08/2013 by Harry J. Goldstein, Architect. (3 pages)
2. Plot plan with hand drawing of last addition.
3. Plot plan with hand drawing of proposed addition.

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

Shannon Payne testified that they would like to add a one-story addition to the rear of the house; that they have owned the house for twelve years; that there are four people in the immediate family; that the property is pie shaped and the house sits on an angle; that the lot is also a corner lot with two front yards; and that the addition is a great room for the family.

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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.

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 property has two front yards and similar additions have been constructed in the area.
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 property has two front yards and 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 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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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.

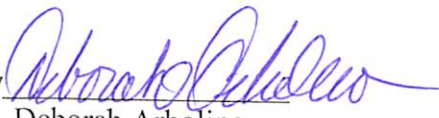
TOWN CLERKS OFFICE
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The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Ms. Albanese, 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 19, 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 -B.v.W.

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

TOWN CLERKS OFFICE
2014 MAR 7 AM 9 35
TOWN OF ORANGETOWN

DECISION

FRONT YARD VARIANCE APPROVED

To: Catherine Leahy
96 Secor Boulevard
Pearl River, New York 10965

ZBA # 14-14
Date: February 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-14: Application of Catherine Leahy for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 29.1' existing, 25.2' proposed) for a portico at an existing single-family residence. The premises are located at 96 Secor Boulevard, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 41 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 19, 2014 at which time the Board made the determination hereinafter set forth.

Catherine Leahy appeared and testified.

The following documents were presented:

1. Hand drawn plans of the proposed portico. (2 pages)
2. A copy of the survey dated June 28, 1951 by Beckerle Brown, Inc.

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

Catherine Leahy testified that she would like to build a cover over the existing front stoop; that the existing stoop measures 4' x 8'; that there have been much larger additions built in the neighborhood; that the existing front yard to the house is 29.1'; that the stoop was not counted in that measurement but when we add a roof over the stoop it will count for the front yard setback.

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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.

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. Similar additions have been constructed in the area.
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 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 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
2014 MAR 7 AM 9 35
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.


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The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Bosco, seconded by Ms. Albanese and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Ms. Albanese, 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 19, 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 -B.v.W.

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

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