

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: BNM Properties Site Plan; 37 Ramland Road, Orangeburg, NY ; 76.08 / 1 / 6; LIO 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 9:30 P.M.

Dated: January 22, 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
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TOWN CLERKS OFFICE

DECISION

AMENDMENT TO ZBA #12-72 APPROVED WITH SPECIFIC CONDITIONS

To: William Eggers
11 Prospect Avenue
Woodcliff Lake, New Jersey 07677

ZBA # 13-85
Date: January 22, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-85: Application of Eggers Automotive LLC, requesting the Zoning Board of Appeals (ZBA) to amend the ZBA's prior Decision, dated 10/17/2012, regarding ZBA # 12-72, so as to allow the Applicant to rent/lease U Haul motor vehicles, with no greater than three rental/lease U-Haul motor vehicles to be parked on the subject premises at any time. The premises are located at 88 South Main Street, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 5, Lot 4; CO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 22, 2014 at which time the Board made the determination hereinafter set forth.

William Eggers and Janice Ganley appeared and testified.

The following documents were presented:

1. Survey dated June 30, 1978 by Decker, Dillin and Sorace, P.E.
2. Hand drawing of the site showing where the trucks would be parked.
3. Zoning board of Appeals Decision #12-72 dated October 17, 2012.

Mr. Sullivan, 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, Mr. Sullivan moved for a Board determination that the foregoing application seeks to construct or expand a primary or accessory/appurtenant Non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this 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: Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were absent.

William Eggers testified that he would like to rent U-Haul vehicles because this would help him to stay in business; that he started out servicing the vehicles and U-Haul asked if he would like to rent vehicles; that he could make approximately \$10,000 a year doing this and it would help him to stay in business; that it is an extension of the business that he is in; that he would like to have three U-Haul vehicles available to rent; that there are times that he could also be servicing U-Haul vehicles; that other times a one way rental may be dropped off at his shop and picked up within a couple of days; that the lot is large enough to accommodate the vehicles and that this accessory use would help him while he is establishing his car repair business.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the amendment to ZBA# 12-72 is granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

The proposed accessory use as described and represented by the applicant:

1. Will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
2. Will not cause undue traffic congestion or create a traffic hazard.
3. Will not create at any point of determination set forth in §§4.16, 4.17 and 4.18 any more dangerous and objectionable elements referred to in § 4.11 than is characteristic of the uses expressly permitted as of right in the same district.
4. Will not adversely affect the character of or property values in the area.
5. Will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the town.
6. Will comply with all other regulations applicable to such use. For all special permit uses, a proposed plan showing the size and location of the lot, design and location of the proposed facilities (including access drives, screening and streets within 1,000 feet), and a detailed description thereof, must be submitted in accordance with the rules prescribed by the Board.
7. The Board has instructed the applicant to submit such plan (described in #6 above) to James Dean, Superintendent of Highways, Town of Orangetown, for his approval.
8. Before any special permit is granted, the applicant must secure approval of the proposed drainage structure by the Town Engineer or the consulting engineers for the Town of Orangetown. The drainage criteria for special permit uses shall be the same as the drainage criteria in the Highway Specifications of the Town of Orangetown and the Orangetown Subdivision Regulations. The special permit shall also require that, where it is not practical to install permanent drainage facilities prior to the completion of the work for which the special permit is granted, it will be necessary for temporary drainage structure to be provided so that all surrounding properties are protected from flooding hazards during construction of the project for which the special permit is issued. No permit shall be issued by the Inspector unless and until a drainage plan approved by the Town Engineer and/or consulting engineers, shall be filed with the Inspector.
9. The Zoning Board has instructed the applicant to submit a drainage plan (described in #8 above) to the Orangetown Department of Environmental Management and Engineering ("DEME") for approval.
10. The site development plan submitted must show that concrete sidewalks and curbs, to be constructed in accordance with the specifications of the Town of Orangetown, are to be provided.

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11. The Zoning Board has waived the sidewalk and curbs requirement (described in #10) because there have never been sidewalks in this area and no construction is taking place on the lot.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested amendment to the Special Permit granted in ZBA#12-72 to allow the applicant to rent/lease U-Haul motor vehicles, with no greater than three rental/lease U-Haul motor vehicles to be parked on the subject premises at anytime; 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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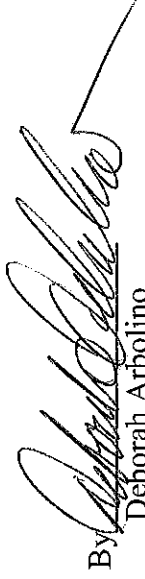
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The foregoing resolution to approve the application for the requested amendment to the Special Permit granted in ZBA#12-72 to allow the applicant to rent/lease U-Haul motor vehicles, with no greater than three rental/lease U-Haul motor vehicles to be parked on the subject premises at anytime; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were 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: January 22, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By: 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Shawn Levesque and Sara Pir
14 Swan Street
Palisades, New York 10964

ZBA # 14-05
Date: January 22, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-05: Application of Shawn and Sara Pir Levesque for an amendment to ZBA# 13-31; which granted variances from Chapter 43 (Zoning)of the code of theTown of Orangetown, Section 3.12, R-40 District, Group E, Columns 4 (Floor Area Ratio: .15 permitted, .20 granted, .23 proposed), 8 (Front Yard: 50' required, 29.8' and 37.2' existing & 30' granted), 9 (Side Yard: 30' required, 19.8' existing, 17.8' proposed to second floor overhang) and 12 (Building Height: 23.25' permitted, 24.25' existing, and 29.33' granted) for an addition to an existing single-family residence. The premises are located at 14 Swan Street, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 48; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 22, 2014 at which time the Board made the determination hereinafter set forth.

Shawn Leveque Sarah Pir Levesque and Donald Brenner appeared and testified.

The following documents were presented:

1. Architectural plans dated April 1, 2013, revised 10/31/2013 signed and sealed by Kier B. Levesque, Architect.

Mr. Sullivan, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12), and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Ms. Albanese and Mr. Bosco were absent.

Donald Brenner, Attorney, testified that the family has lived in the house for many years; that they have two children aged 9 and 11; that they came before the Board and received variances for the proposed addition; that the addition was started and the applicant decided that they should fill in the second floor with much needed closet space and also to move the laundry room to second floor; that these proposed changes do not effect the site plan; that the overhang on the second floor does change the setback because it is measured from that proposed overhang and the changes do increase the floor area ratio slightly.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. 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 floor area ratio, front yard, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area and these are minor changes from the previously approved variances granted in ZBA#13-31, dated May 15, 2013.
2. The requested floor area ratio, front yard, side yard, and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area and these are minor changes from the previously approved variances granted in ZBA#13-31, dated May 15, 2013.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard, side yard, and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area and these are minor changes from the previously approved variances granted in ZBA#13-31, dated May 15, 2013.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, front yard, side yard, and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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


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The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard, and building height variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Ms. Albanese and Mr. Bosco were 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: January 22, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has existed since 1985 without incident.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The deck has existed since 1985 without incident.
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 total side yard variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested total 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.

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The foregoing resolution to approve the application for the requested total side yard variance was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were 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: January 22, 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

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DECISION

FLOOR AREA RATIO AND SIDE YARD VARIANCES APPROVED

To: Jorge and Elba Cornielle
102 Princeton Drive
Tappan, New York 10983

ZBA # 14-07

Date: January 22, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-07: Application of Jorge and Elba Cornielle for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12. Group M, Columns 4 (Floor Area ratio: .20 permitted, .22 existing, .238 proposed), and 9 (Side Yard: 20' required, 18.3' proposed) for an addition to an existing single-family residence. The premises are located at 102 Princeton Drive, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.17, Block 3, Lot 42; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 22, 2014 at which time the Board made the determination hereinafter set forth.

Jorge and Elba Cornielle appeared and testified.

The following documents were presented:

1. Architectural plans dated 10/11/2013 signed and sealed by Jorge L. Lopez, Architect. (3 pages)
2. Survey dated October 28, 2013 by Robert Sorace, PLS.
3. Three letters from abutting property owners in support of the application.

Mr. Sullivan, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were absent.

Jorge Cornielle testified that they would like to add two small additions to the existing house; that the upstairs addition would enlarge the master bathroom, which is quite small; that the second addition to the first floor would extend the dining room; that they have owned the house for thirteen years; that there are seven members of the family and they need a little more space.

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TOWN OF ORANGETOWN

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and side yard variances are not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

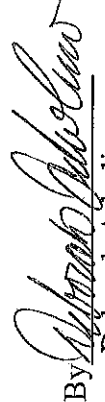
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The foregoing resolution to approve the application for the requested floor area ratio and side yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were 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: January 22, 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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TOWN OF ORANGETOWN

DECISION

LOT AREA, LOT WIDTH, REAR YARD, TOTAL SIDE YARD AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED

To: Sarah Brereton
53 N. William Street
Pearl River, New York 10965

ZBA # 14-09
Date: January 22, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-09: Application of Brereton/Messina Subdivision plan for variances from Chapter 43 (Zoning) of the code of the Town of Orangetown, Section 3.12, RG District, Group Q, Columns 5 (Lot Area: 10,000 sq. ft. required, 7,444 sq. ft. existing & 9,495 sq. ft. proposed for lot #31), 6 (Lot Width: 75' required, 56' proposed for lot #31). 9 (Rear Yard: 25' required, 10.7' existing for lot # 30) and 10 (Total Side Yard: 30' required, 28.1' proposed) and from Section 5.227 (Accessory Structure : 5' from property line required, 3' & 2' proposed) for a lot line change, no new construction). The premises are located at 53 & 55 North Williams Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 4, Lots 30 & 31; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 22, 2014 at which time the Board made the determination hereinafter set forth.

Jack and Sharon Messina and Peter and Sarah Brereton appeared and testified. Jack Messina disclosed that he is a member of ACABOR in the Town of Orangetown. The following documents were presented:

1. Plans labeled "Z.B.A. Appeal Lot Line Change for Brereton & Messina dated 09/09/2013 with the latest revision date of 12/02/ 2013 signed and sealed by Robert E. Sorace, P.L.S. (1 page)
2. Certificates of Occupancy dated August 27, 1956, August 7, 1959, and August 24, 2006.
3. A copy of a building permit dated December 3, 1958 for a two-car garage at 55 No. William Street.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning 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 determined that 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 Regulations § 617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were absent.

Jack Messina testified that they would like to sell a wedge of their property to their neighbors' the Brereton's'; that the wedge of property also has the garage that was built in 1949 on it; that the existing house has a two car garage that was built in 1958. That the exchange of property does not detract anything from his lot and adds a garage to his neighbor and the property in rear going to the Brereton's' is 79.41 feet.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested lot width, lot area, rear yard, total side yard and accessory structure distance variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There is no new construction planned for the application and the lot line change exchanges a slice of property and an accessory structure that has existed since 1949.
2. The requested lot area, lot width, rear yard, total side yard and accessory structure distance variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There is no new construction planned for the application and the lot line change exchanges a slice of property and an accessory structure that has existed since 1949.
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 variances are not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested lot area, lot width, rear yard, total side yard and accessory structure distance variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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Messina/ Brereton
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The foregoing resolution to approve the application for the requested lot area, lot width, rear yard, total side yard, accessory structure distance variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Albanese were 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: January 22, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino
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