

MINUTES
ZONING BOARD OF APPEALS
JULY 17, 2013

MEMBERS PRESENT:

MICHAEL BOSCO
JOAN SALOMON
NANETTE ALBANESE
PATRICIA CASTELLI
LEONARD FEROLDI, ALTERNATE

ABSENT:

DANIEL SULLIVAN, CHAIRMAN

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 as noted below:

<u>APPLICANTS</u>	<u>PUBLISHED ITEMS</u>	
	<u>DECISIONS</u>	
<u>POSTPONED ITEM:</u>		
49 SUNSET ROAD	§ 5.227 ACCESSORY	ZBA#13-51
70.09 / 2 / 23.2 R-15 zone	STRUCTURE VARIANCE	APPROVED
<u>NEW ITEMS:</u>		
MORALES	REAR YARD	ZBA#13-55
78.18 / 1 / 3.2; R-80 zone	VARIANCE	APPROVED
ALGERT	SIDE YARD AND	ZBA#13-56
78.17 / 1 / 62; R-15 zone	TOTAL SIDE YARD, DRIVEWAY	
	WIDTH VARIANCES	APPROVED
STRINGER	ACCESSORY STRUCTURE	ZBA#13-57
68.12 / 3 / 47; RG zone	DISTANCE VARIANCE	APPROVED
THE STATION	CHAPTER 31B-3 (C) (2) & (B) (2)	ZBA#13-58
78.18 / 1 / 2; R-80 zone	AND SIDE YARD VARIANCES	APPROVED
	AS AMENDED WITH CONDITION	
MURPHY	SIDE YARD AND TOTAL	ZBA#13-59
74.14 / 2 / 6; R-15 zone	SIDE YARD VARIANCES	APPROVED

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:45 P.M.

Dated: JULY 17, 2013

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
2013 JUL 31 PM 12 25
TOWN CLERKS OFFICE

DECISION

SECTION 5.227 VARIANCE APPROVED

To: Davinder Makan (49 Sunset)
P.O.Box 979
Harriman, New York 10926

ZBA # 13-51
Date: July 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-51: Application of 49 Sunset Road for a variance from Chapter 43 (Zoning) Town of Orangetown, R-15 District, Group M, Section 5.227 (Accessory Building: must be installed in rear yard (5) five feet from the property line: hot box is on the property line in the front yard) for a hot box to house water meter and backflow preventer for an existing single-family residence. The premises are located at 49 Sunset Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.09, Block 2, Lot 23.2; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, July 17, 2013 at which time the Board made the determination hereinafter set forth.

Bert Dorfman, Attorney, appeared and testified.

The following documents were presented:

1. Site plan.
2. Backflow and Hotbox Detail (one 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: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Bosco, aye. Mr. Sullivan was absent.

Bert Dorfman testified that the applicant's house was built on a flag lot; that because it was built on a flag lot, the house needed to have sprinklers in case of a fire; that the sprinkler system must have a backflow preventer; that the applicant installed a backflow preventer in the house; that United Water would not accept the location of the installed backflow preventer because it was too far away from the street; that the applicant paid to remove it from the house and moved it to its present location at the front of the long driveway; that it needs to be housed inside a small building because there must be heat; that the small shed structure was built and heated to house the backflow preventer and it was accepted by Unite Water; that the house was going forward to closing when the building department determined that this structure needed a variance; that they issued a certificate of occupancy for the structure, so that the applicant could proceed with the closing on the property and referred the application to this Board; and we are requesting the necessary variances finish the process.

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.

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 § 5.227 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The service to the house is more than 75 feet from the property line and United Water requires the client to install their water meters and backflow devices in a heated enclosure at the property line.
2. The requested § 5.227 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The service to the house is more than 75 feet from the property line and United Water requires the client to install their water meters and backflow devices in a heated enclosure at the property line.
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 § 5.227 variance is substantial, however the variance affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The service to the house is more than 75 feet from the property line and United Water requires the client to install their water meters and backflow devices in a heated enclosure at the property line.
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

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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Section 5.227 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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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Section 5.227 variance was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, 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: July 2, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -B.v.w.

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

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 25

TOWN OF ORANGETOWN

DECISION

REAR YARD VARIANCE APPROVED

To: George and Leslie Morales
P.O. Box 64
Palisades, New York 10964

ZBA # 13-55
Date: July 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-55: Application of George and Leslie Morales for a variance from Chapter 43 (Zoning) Town of Orangetown, Section 3.12, R-80 District, Group A, Column 11 (Rear Yard: 50' required, 47.23' proposed and existing) for an existing storage shed at an existing single-family residence. The premises are located at 227 Route 9W, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 3.2; R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, July 17, 2013 at which time the Board made the determination hereinafter set forth.

Leslie Morales and Daniel Koplowitz, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated May 2013 signed and sealed by Daniel Koplowitz, Architect with pictures of the existing shed attached.
2. A letter dated July 2, 2013 from the county of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning.

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

Daniel Koplowitz, Architect, testified that the shed was built nine years ago without a permit; that the house is being sold and the shed needs to be legalized; that it was built nine inches too close to the rear property line and needs a variance; that it has been reviewed by the historic Board and given their approval; and that they apologize for building the structure without a permit and are requesting the granting of the variance so that they can proceed in the sale of the property.

Leslie Morales testified that the abutting property owner is purchasing the property; that at the time that the shed was constructed she was busy caring for her son; that her ex-husband built the shed; that it matches the house and it cannot be seen from the street.

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 25

TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The shed has existed for nine years without incident, the variance is minor, and the shed cannot be seen from the street.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The shed has existed for nine years without incident, the variance is minor, and the shed cannot be seen from the street.
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 rear 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

2013 JUL 31 PM 12 25

TOWN OF ORANGETOWN

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

General Conditions:

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

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 25

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, 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: July 17, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -B,vw.

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

TOWN OF ORANGETOWN
2013 JUL 31 PM 12 25
TOWN CLERKS OFFICE

DECISION

**SIDE YARD, TOTAL SIDE YARD AND Section 6.1c (DRIVEWAY WIDTH)
VARIANCE APPROVED**

To: Peter and Kimberly Alpert
5 Iroquois Avenue
Palisades, New York 10964

ZBA # 13-56
Date: July 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-56: Application of Peter and Kimberly Alpert for variances from Chapter 43 (Zoning) Town of Orangetown, R-15 District, Group M, Columns 9 (Side Yard: 20' required, 17.84' proposed), 10 (Total Side Yard: 50' required, 42.84' proposed) and from Section 6.1c (Driveway Width: 18' permitted, 23.76' proposed) for the addition of a two-car garage and front porch at an existing single-family residence. The premises are located at 5 Iroquois Avenue, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 1, Lot 62; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 17, 2013 at which time the Board made the determination hereinafter set forth.

Peter and Kimberly Alpert and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plan dated 10/10/ 2011 signed and sealed by Robert Hone, Architect.

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

Robert Hoene, Architect, testified that the applicants would like to add another bay to the existing one car garage to make it a two car garage; that they would like to change out the existing garage door and install two 9' garage doors; that in order to accomplish this they will infringe on the side yard setback slightly; that they also need a variance to widen the driveway to accommodate the additional garage.

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 25

TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard, total side yard and § 6.1c driveway width 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 neighborhood.
2. The requested side yard, total side yard and § 6.1c driveway width 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 neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard, total side yard and § 6.1c driveway width 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 neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 26

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard, total side yard and § 6.1c driveway width variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard, total side yard and § 6.1c driveway width variances was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; 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: July 17, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
2013 JUL 31 PM 12 26
TOWN OF ORANGETOWN

DECISION

**SECTION 5.153 ACCESSORY STRUCTURE DISTANCE VARIANCE
APPROVED**

To: Simon Stringer
99 East Lewis Avenue
Pearl River, New York 10965

ZBA # 13-57
Date: July 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-57: Application of Simon Stringer for a variance from Chapter 43 (Zoning), Section 5.153, RG District, (Accessory Structure Distance from Principal Building: 15' required, 8' existing, 1'2" proposed) for a deck at an existing single-family residence. The premises are located at 99 East Lewis Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.12, Block 3, Lot 47; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 17, 2013 at which time the Board made the determination hereinafter set forth.

Simon and Eileen Stringer appeared and testified.

The following documents were presented:

1. Site plan with proposed deck drawn on it.

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

Simon Stringer testified that they applied for the deck and it was deemed to be too close to the existing garage and they were sent to the Board; that he will be building the deck himself; that he will be cutting into the existing patio for the footings for the deck; and that if he shortened the deck it would be awkward because of the existing stairs.

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 26

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 § 5.153 accessory structure distance 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 § 5.153 accessory structure distance 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 § 5.153 accessory structure distance variance, although substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area.
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 variance.

TOWN CLERKS OFFICE

2013 JUL 31 PM 12 25

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested § 5.153 accessory structure 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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Stringer
ZBA#13-57
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The foregoing resolution to approve the application for the requested Section 5.153 accessory structure distance variance was presented and moved by Ms. Albanese, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, 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: July 17, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OEBZPAE
BUILDING INSPECTOR -B.v.W.

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

TOWN OF ORANGETOWN
2013 JUL 31 PM 12 26
TOWN CLERKS OFFICE

DECISION

**SECTIONS 31B-3 (C)(2); 31B-3 (B)(2) AND SIDE YARD (as amended to 20')
VARIANCES APPROVED**

To: Jesse Dorfman (The Station)
790 Piermont Avenue
Piermont, New York 10968

ZBA #13-58
Date: July 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-58: Application of "The Station" for variances from Town of Orangetown, Chapter 31B-3 (C) (2): (Area variance for tables and chairs in the side and rear yards) and Chapter 31B-3 (B)(2)(Renew Yearly) and from Chapter 43 (Zoning), R-80 District, Section 3.12, Column 9 (Side Yard: 30' required, 15' proposed) for a storage shed at an existing business. The premises are located at 243 Route 9W, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 2; R-80 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 17, 2013 at which time the Board made the determination hereinafter set forth.

Bert Dorfman, Attorney, Jesse Dorfman and Steve Galanis appeared and testified.

The following documents were presented:

1. Site plan labeled "The Station" dated 11/28/2012 last revised 05/16/2012 by Dominick Pilla, Architect & P.E.
2. Architectural plans labeled "Plans, Elevations, & Vicinity Map" dated 11/28/2012 with the latest revision date of 05/16/ 2012 signed and sealed by Dominick Pilla, P.E.
3. Three pictures of the proposed shed.
4. A letter dated July 2, 2013 from the county of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning.
5. A letter dated June 28, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
6. A letter dated July 15, 2013 from the Palisades Interstate Park Commission signed by Karl B. Roecker, Landscape Architect.
7. A memorandum dated June 12, 2013 from Michael Bettmann, Chief, Bureau of Fire Prevention, Town of Orangetown.

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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Bosco, aye. Mr. Sullivan was absent.

Bert Dorfman, Attorney, testified that they will move the proposed shed five feet further into the property to comply with the letter from the Palisades Park Commission; that the establishment is a take out service establishment; that there is a kitchen and a bakery; that the premises; that the parking calculations have been figured out several ways and they comply with the required parking for the use of the space.

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Jesse Dorfman testified that he parking calculations were first figured out on the square footage of the building and then they were calculated on the number of seats; and the parking required for the number of seats both inside and outside of the establishment would be 22 and the number required based on square footage of the building would be seven spaces; that they are providing 26 spaces; and that many of the patrons are arriving on foot and bicycles coming from the adjacent park.

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 Chapter 31B §31B-3 (C) (2), and §31B-3 (B) (2) and side yard setback (as amended to 20') variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to move the proposed shed 20' from the property line, which will honor the 20 foot vegetative buffer along the northern boundary for the Palisades Interstate Park Commission.
2. The parking calculations were discussed and clarified. The applicant has provided more than the required parking for the amount of seats both inside and outside of the establishment.
3. The requested Chapter 31B §31B-3 (C) (2), and § 31B-3 (B) (2) and side yard setback (as amended to 20') variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to move the proposed shed 20' from the property line, which will honor the 20 foot vegetative buffer along the northern boundary for the Palisades Interstate Park Commission.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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5. The requested Chapter 31B§ 31B-3 (C) (2), and §31B-3 (B) (2) and side yard setback (as amended to 20') 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. The applicant has agreed to move the proposed shed 20' from the property line, which will honor the 20 foot vegetative buffer along the northern boundary for the Palisades Interstate Park Commission.
6. 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 Chapter 31B §31B -3 (C) (2), and §31B-3 (B) (2) and side yard setback (as amended to 20') variances are APPROVED with the SPECIFIC CONDITION that the applicant extend the fire alarm devices to the rear patio enclosure as required by Michael Bettmann, Chief, Bureau of Fire Prevention, 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.

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.

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(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.

The foregoing resolution to approve the application for the requested Chapter 31B§31B-3 (C) (2), and § 31B-3 (B) (2) and side yard setback (as amended to 20') variances with the specific condition that the applicant extend the fire alarm devices to the rear patio enclosure as required by Michael Bettmann, Chief, Bureau of Fire Prevention, Town of Orangetown; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, 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: July 17, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR - R.A.O.

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES

To: John Murphy
10 Isabel Road

ZBA # 13-59

Orangeburg, New York 10962

Date: July 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-59: Application of John Murphy for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Columns 9 (Side Yard: 20' required, 7' 9" proposed) and 10 (Total Side Yard: 50' required, 30' proposed) for an existing deck at an existing single-family residence, The premises are located at 10 Isabel Road, Orangeburg, New York and identified on the Orangetown Tax Map as Section 74.14, Block 2, Lot 6; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 17, 2013 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and John Murphy appeared and testified.

The following documents were presented:

1. Survey with proposed deck drawn on it.
2. Deck plans.

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

Donald Brenner, Attorney testified that the applicant purchased the house 12 years ago; that they hired a contractor to install the deck over the existing cracked patio before they moved into the house; that they did not know that the deck was in violation until recently; that they are before the Board to rectify the situation.

John Murphy presented the Board with a picture of the existing deck and told the Board that they are in the process of selling the house.

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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 side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has existed for twelve years without complaint and the lots on this block are not large.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The deck has existed for twelve years without complaint and the lots on this block are not large.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard and total side yard 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. The deck has existed for twelve years without complaint and the lots on this block are not large.
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 side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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Murphy
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The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, 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: July 17, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
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