

MINUTES  
ZONING BOARD OF APPEALS  
January 20, 2016

MEMBERS PRESENT: DAN SULLIVAN  
PATRICIA CASTELLI  
THOMAS QUINN  
LEONARD FEROLDI, ALTERNATE  
MICHAEL BOSCO

ABSENT: JOAN SALOMON

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney  
Ann Marie Ambrose, Official Stenographer  
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

YONDERHILL INTERPRETATION 1 Closter Road Palisades, NY 78.18 / 1 / 52; R-40 zone	POSTPONED	ZBA#16-05
SMK ERIE LOT #1 24 Private Del Regno Blauvelt, NY 70.13 / 1 / 21.5; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#16-06
SMK ERIE LOT #2 22 Private Del Regno Blauvelt, NY 70.13 / 1 / 21.6; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#16-07

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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 8:00 P.M.

Dated: January 20, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By *Deborah Arbolino*

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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DECISION

**REAR YARD VARIANCE APPROVED**

To: Sean Keenan (SMK Erie Lot #1)  
24 Waters Edge  
Congers, New York 10920

ZBA #16-06  
Date: January 20, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-06: Application of SMK Erie Lot #1 for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 11 (Rear Yard: 35' required, 24.6' proposed) for a deck at a single-family residence. The premises are located at 24 Private Del Regno, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.13, Block 1, Lot 21.5; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 20, 2016 at which time the Board made the determination hereinafter set forth.

Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Copy of site plan labeled "Plot plan for deck -Lot #1" signed and sealed by Jay A. Greenwell, L.S..(1 page).
2. Architectural plans labeled "Rear & Right Elevations with "Floor Plans" dated 03/20/2015 with the latest revision date of 12/08/2015, signed and sealed by Robert Hoene, Registered Architect (1 page).
3. One computer generated picture of the existing deck.

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

Robert Hoene, Architect, testified that the original plan was proposing a patio, which would not have needed a variance but the patio was changed to a deck during construction because of the grading of the property; that they would have had to bring in a lot of fill in order to construct the patio and by building a deck they were able to ad basement windows to the house; and that is why they are before the board now.

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Public Comment:

Janice Tocco, 17 Colony Drive, Blauvelt, testified that this house is directly behind her house; that it is already close to her house and she wanted to make sure that the proposed deck was not getting larger; that she was used to having woods and a meadow in the rear of her house and this three story house is a big change.

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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
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 builder should take note not to make field changes to plans that have been reviewed and approved by the building department.
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.
6. The builder should take note not to make field changes to plans that have been reviewed and approved by the building department.

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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 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.

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SMK Erie Lot #1  
ZBA#16-06  
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The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Ms. Castelli, seconded by Mr. Bosco, and carried as follows: Mr. Quinn, aye ;Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Ms. Salomon 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: January 20, 2016

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

**REAR YARD VARIANCE APPROVED**

To: Sean Keenan (SMK Erie Lot #2)  
24 Waters Edge  
Congers, New York 10920

ZBA #16-07  
Date: January 20, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-07: Application of SMK Erie Lot #2 for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 11 (Rear Yard: 35' required, 26.6' proposed) for a deck at a single-family residence. The premises are located at 22 Private Del Regno, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.13, Block 1, Lot 21.6; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 20, 2016 at which time the Board made the determination hereinafter set forth.

Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Copy of site plan labeled "Plot plan for deck -Lot #2" signed and sealed by Jay A. Greenwell, L.S. (1 page).
2. Architectural plans labeled "Rear & Right Elevations with Floor Plans" dated 03/20/2015 with the latest revision date of 12/08/2015, signed and sealed by Robert Hoene, Registered Architect (1 page).
3. One computer generated picture of the existing deck.

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

Robert Hoene, Architect, testified that the original plan was proposing a patio, which would not have needed a variance but the patio was changed to a deck during construction; that the grading of the property would have meant that quite a bit of fill would have to be brought in; that the change should have been brought back to the building inspector for review; and that is why they are before the board now.

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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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
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 builder should take note not to make field changes to plans that have been reviewed and approved by the building department.
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 rear yard variance is not substantial. The builder should take note not to make field changes to plans that have been reviewed and approved by the building department.
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.
6. The builder should take note not to make field changes to plans that have been reviewed and approved by the building department.

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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 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.

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SMK Erie Lot #2  
ZBA#16-07  
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The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Mr. Quinn, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Sullivan, aye. Ms. Salomon 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: January 20, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
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TOWN CLERK  
HIGHWAY DEPARTMENT  
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DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

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