

MINUTES
ZONING BOARD OF APPEALS
JULY 2, 2014

MEMBERS PRESENT: JOAN SALOMON
THOMAS QUINN
LEONARD FEROLDI, ALTERNATE
DANIEL SULLIVAN, CHAIRMAN

ABSENT: MICHAEL BOSCO
PATRICIA CASTELLI

ALSO PRESENT: Robert Magrino, 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

CONTINUED ITEM:

QUINN SPECIAL PERMIT & PERFORMANCE STANDARDS 77.15 / 1 / 42; CS zone	APPROVED WITH CONDITIONS	ZBA#14-43
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NEW ITEMS:

PACQUING 77.06 / 1 / 37; R-15 zone	SIDE YARD, REAR YARD, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#14-47
STEFANOVICH 74.14 / 2 / 26; R-15 zone	TOTAL SIDE YARD AND DISTANCE BETWEEN STRUCTURES VARIANCES APPROVED	ZBA#14-48
BOURKE 68.20 / 2 / 54; RG zone	FLOOR AREA RATIO, BUILDING HEIGHT AND ACCESSORY STRUCTURE VARIANCES APPROVED	ZBA#14-49
OLIVER 68.20 / 2 / 41; RG zone	FLOOR AREA RATIO, BUILDING HEIGHT AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED	ZBA#14-50
BROWN 80.06 / 1 / 25; R-80 zone	SIDE YARD VARIANCE APPROVED	ZBA#14-51
KATZEN 70.09 / 3 / 60; R-40 zone	FRONT YARD VARIANCE APPROVED	ZBA#14-52
SMK HOMES 69.17 / 5 / 1.2; R-15 zone	FLOOR AREA RATIO, FRONT YARD, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#14-53

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman, Daniel Sullivan, 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: Rockland Gaelic Athletic Association Centre of Excellence Site Plan, 160 Old Orangeburg Road, Orangeburg, N.Y. 73.12 / 1 / 1; 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 10:30 P.M.

Dated: July 2, 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

**SPECIAL PERMIT (ONE YEAR) & PERFORMANCE STANDARDS REVIEW
APPROVED
WITH SPECIFIC CONDITIONS**

To: Thomas Quinn
54 Bennington Drive
Tappan, New York 10983

ZBA # 14-43
Date: June 18, 2014
July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-43: Application of Quinn Sheetmetal & Mechanical Design for a Special Permit pursuant to Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.11, CS District, Column 3 # 8 (Other Retail/ Services) and Section 4.1, Performance Standards Review for a sheetmetal and mechanical design shop. The premises are located at 64 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 42; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, June 18, 2014 and July 2, 2014 at which time the Board made the determination hereinafter set forth.

At the June 18, 2014 meeting, Thomas Quinn, Jr. and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Hand drawing of the proposed layout within building.
2. Survey of the property.
3. Performance Standards Resume of Operations and Equipment form dated May 7, 2014 and signed by Thomas Quinn Jr..
4. Fire Prevention Supplement.
5. A letter dated May 16, 2014 from Bruce Peters, P.E. for Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, town of Orangetown.
6. A letter dated June 11, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
7. A memorandum dated May 12, 2014 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
8. A letter dated June 16, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
9. A letter dated May 16, 2014 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
10. A letter from the County of Rockland Drainage Agency signed by Vincent Altieri, Executive Director.
11. A letter dated June 19, 2014 from the Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E. Commissioner.
12. A letter dated June 30, 2014 from Jacob Tanenbaum, 35 Livingston Street, Tappan.
13. A letter dated June 30 2014 from Andrea Siegel, PhD , 35 Livingston Street, Tappan, New York.

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

Donald Brenner, Attorney, testified that he is representing L & G Realty, the landlord for the property; that many years ago this building was used to grow orchids; that later it was used for storage for the beverage center; that he understands the concerns of the neighbors but would like to point out that the neighbors were also extremely concerned

when the table tennis/pool hall opened and there has never been a noise complaint Lodged and that building is set back the same distance as this one; that he would also like to point out that there is also a laundry and restaurant in the same area; that this business is for custom made pieces; that legally a commercial printer could be installed in the building and that could be detrimental; that the applicant has to meet the sound requirements for the town and they would like a continuance to get the results from the engineering department.

Tom Quinn, Jr. testified that they are proposing to use the freestanding 40' by 80' steel building for a retail-service business; that Quinn Sheetmetal will design, cut and bend sheet steel into usable duct fittings for HAVC use; that the business will also sizeup and design A/C and heating systems for architects and contractors; that the building would be I use between 7 am and 10 pm Monday through Saturday; and open to customers between 7 am and 6 pm Monday through Saturday; that these customers will be leaving plans, drawings and orders for us to deliver; that the expected number of customers would be couple per hour; that the closest similar business would be a custom upholstery shop except this business uses metal s the product; that they are expecting small trucks routinely and a metal delivery truck once a month; that there is more than enough asphalt parking and loading area; that the noise would be contained within the well insulated building and no welding or painting would be done on premises.

Public Comment:

Jacob Tanenbaum, 35 Livingston Street, Tappan, testified that he is an abutting property owner, that he protests the noise of an electric hammer and cutting equipment; that he is a writer and needs quiet; that this sounds like manufacturing; and the neighborhood is peaceful and quiet and this will negatively affect his property values.

Melissa Derasmo, 29 Livingstone Street, Tappan, testified that she is an adjacent property owner; that she is up at 5:00 am for work and needs to sleep at night; that her bedroom window is on the side of this building; that she is concerned with the hours and noise.

Rich Addressi, 13 Livingston Street, Tappan testified that he works from home; that his office is in the rear of his house and he is concerned with noise; that he has a young son and worried about his sleep being disturbed; that the hours of operation and resale values are a concern that he shares with his neighbors.

Andrea Siegel, 35 Livingston Street, Tappan, testified that she moved here from Queens to get away from manufacturing noises; that she is a writer and needs quiet to concentrate; that this would destroy his writing; and that the applicant should find an area zoned for manufacturing.

At the July 2, 2014 meeting, the following documents were presented:

1. A letter dated June 19, 2014 from the Department of Environmental Management and Engineering, Town of Orangetown, signed by Joseph J. Moran, P.E., Commissioner.
2. A letter dated June 30, 2014 from Jacob Tanenbaum with attachments.
3. A letter dated June 30, 2014 from Andrea Siegel, PHD with attachments.

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At the July 2, 2014 meeting, Donald Brenner, attorney, and Tom Quinn Jr. testified. Donald Brenner, Attorney testified that the building department found that this application can operate in this location with a Special Permit and Performance Standards; that the code states what the noise can be at the property line; that this building was previously used as a machine shop for the hardware store and mowers and other machines were repaired in it; that when he represented the landlord for the pool room the neighbors came out in concern for the noise that would be generated by it; and there is no noise generated by it; that Mr. Quinn is respectful and knows his business; that this building is well suited for this business and they can limit the hours of operation to 7:00 A.M. to 9:00 P.M..

Tom Quinn Jr. testified that they could limit the hours of operation from 7:00A.M to 9:00 P.M.; that they would be willing to come back one year from the issuance of the Certificate of Occupancy to renew the Special Permit; and that if there is no problem with noise they would request that the Special Permit be continued because it is expensive to move the equipment.

On advice of Robert Magrino, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, and also seeks to construct or expand a primary or accessory/appurtenant, **non**-residential structure or facility 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; 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) &/or (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; and Mr. Feroldi, aye. Mr. Quinn recused himself. Mr. Bosco and Ms. Castelli were absent.

Public Comment:

Melissa Derasmo, 29 Livingston Street, testified that this proposal is 56' from her property line; that she has lived in her house for twenty years; that she is upset about the noise and the hours of operation; that the letter that Mr. Quinn sent the neighbors tells her to "get a lawyer".

Janet Wheeler, 25 Livingston Street, testified that she has a question regarding the Route 303 Overlay and 25' wide and 6' high buffer and why that is not being addressed; and she is also concerned about the hours of operation 7 a.m. to 10 p.m., 6 days a week; and she struggles with the lack of protection for the residents.

Rich Addressi, 13 Livingston testified that he wishes the Quinn's' luck in another location; that this is a historical neighborhood and this business does not fit into it.

John Neill, 91 Oak Tree Lane, testified that he is a mechanical engineer and that this building is ill suited to his proposal; that VEC hearing protection is mandatory; that electrical in the floor for materials and this is making a lot of mistakes.

Rob Magrino, Deputy Town Attorney, stated that if the Building Department determined that the Route 303 Overlay applied to this application they would have referred it to the Board.

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The eight points the ZBA considers in the granting of a Special permit; the Performance Standards Resume of Operations and Equipment, and the Fire Prevention Supplement completed by the applicant were thereupon reviewed in detail.

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 the documents presented, the Board found and concluded that:

The proposed 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 Zoning Code §§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.
7. Before any Special Permit is granted, the applicant must secure approval of a drainage plan by the Town Engineer or the consulting engineers for the Town of Orangetown, or said engineer's report that a drainage plan is unnecessary.
8. 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.
9. The Zoning Board has waived the sidewalk and curbs requirement (described in #8) because there have never been sidewalks in this area and no construction is taking place on the lot.

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10. Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated June 19, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (DEME) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated September 12, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.), and the letter dated May 12, 2014; the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown B.F.P., letter dated May 12, 2014; and the SPECIAL PERMIT §§4.16, 4.17 and 4.18 is GRANTED for one-year from the date of issuance of the Certificate of Occupancy with hours of operation limited to 7:00A.M. through 9:00 P.M. Monday through Saturday; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance, Performance Standards Approval, 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, Performance Standards Approval, or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance, performance standards approval, or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.


(v) Any foregoing variance, Performance Standards Review, 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 Zoning Code § 4.1 Performance Standards Conformance, and Special Permit §§ 4.16, 4.17 and 4.18 for one year from the date of issuance of the Certificate of Occupancy; with hours of operation limited to 7:00 A.M. to 9:00 P.M., Monday through Saturday; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Mr. Quinn recused himself. Mr. Bosco and Ms. Castelli 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: July 2, 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.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

SIDE YARD, REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Jonathan Hodash
60 South Main Street
New City, New York 10956

ZBA # 14-47
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-47: Application of Patricia and Luis Pacquing for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20' required, 15' proposed), 11 (Rear Yard: 35' required, 23.5' proposed) and 12 (Building Height: 15' permitted, 18.9' proposed) for an addition to an existing residence. The premises are located at 198 Western Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 1, Lot 37; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Patricia Pacquing and Jonathan Hodash appeared and testified.

The following documents were presented:

1. Architectural plans dated 01/16/2014 with the latest revision date of 05/07/ 2014 signed and sealed by Jonathan Hodash, Architect. (14 pages)
2. A letter dated June 19, 2014 from the County of Rockland Drainage Agency signed by Vincent Altieri, Executive Director.
3. A letter dated June 20, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
4. A letter dated May 23, 2014 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Castelli and Mr. Bosco were absent.

Jonathan Hodash testified that the existing house is an owner occupied two-family house; that they are before the Board for an addition of a master bedroom over the one car garage; that the family has two grown children that have moved back home with their children; that the parents are proposing the addition to have a space of their own; that the lot is oddly shaped like the letter T; and that they need minimal variances.

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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 Mr. Quinn 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, rear 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.
2. The requested side yard, rear 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.
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, rear 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.
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, rear 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 side yard, rear yard, and building height variances were presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 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.

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

TOWN CLERKS OFFICE
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DECISION

TOTAL SIDE YARD AND DISTANCE BETWEEN STRUCTURE VARIANCES APPROVED

To: Jonathan Hodash (Stefanovich)
60 So. Main Street
New City, New York 10956

ZBA # 14-48
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-48: Application of Michael Stefanovich for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Column 10 (Total Side Yard: 50' required, 48.27' proposed) and from Section 5.153 (Distance between structures: 15' required, 13.2' proposed & existing) for an existing outdoor kitchen to and existing single-family residence. The premises are located at 5 East Lowe Lane, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.14, Block 2, Lot 26; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/16/2014 with the latest revision date of 05/12/ 2014 signed and sealed by Jonathan Hodash, Architect. (1 page)
2. A letter dated June 20, 2014 from the County of Rockland department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
3. A letter dated June 19, 2014 from the County of Rockland Drainage Agency signed by Vincent Altieri, Executive Director.
4. A letter dated May 23, 2014 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter in support of the application signed by nine neighbors.

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

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Jonathan Hodash, Architect, testified that the application is before the Board to legalize and existing outdoor kitchen that was constructed without a permit and accessory structure distance; that the shed is too close to the outdoor kitchen; that the applicant was in court for violations that have been rectified; that they need to obtain variances in order to get a permit for the kitchen and shed and get the proper inspections and certificate of occupancy for them.

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Public Comment:

Paula Fasulo, 5 Heather Lane, testified that she has lived in her house for 49 years; that she is the diagonal back neighbor to the applicant; that when they installed their pool in 2005 she got all the mud and dirt in her yard; that last year when the kitchen went in she complained and she put in thousands of dollars into her property for berms to direct water away; that she spoke to Ed McPhearson in January 2013 and he said he would investigate;; in February she got additional information and in March, she was told a violation letter was sent; but in April the letter had not been sent; that she has been ignored and she wonders how a pool can be constructed in 2005 and not get a certificate of occupancy; that she would like an inspector to inspect what was done and make sure no more water is directed to her property.

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 and distance between structure variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar structures have been constructed in the area.
2. The requested total side yard and distance between structure variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar structures 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 total side yard and distance between structure 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.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested total side yard and distance between structure 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
2014 JUL 21 PM 1 35
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested total side yard and distance between structure variances was presented and moved by Mr. Feroldi, seconded by Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 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.vW.

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

TOWN OF ORANGETOWN
2014 JUL 21 PM 1 35
TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, BUILDING HEIGHT AND ACCESSORY STRUCTURE
DISTANCE VARIANCES APPROVED**

To: Ryan Bourke
141 Martin Place
Pearl River, New York 10965

ZBA # 14-49
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-49: Application of Ryan Bourke for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Columns 4 (Floor Area Ratio: .30 permitted, .34 proposed) and 12 (Building Height: 20' permitted, 25' proposed) and from Section 5.227 (Accessory Structure Distance from lot line: 5' required, 0' existing) for an existing shed and an addition to an existing single-family residence. The premises are located at 141 Martin Place, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 54; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Ryan and Katherine Bourke appeared and testified.

The following documents were presented:

1. Architectural plans dated 09/13/2013 with the latest revision date of 02/17/ 2014 signed and sealed by Barbara Hess, Architect. (1 page elevations)
2. Bulk Table signed and sealed by Barbara Hess, Architect.
3. Survey dated June 24, 2009 by Frank M. Hoens, L.S..

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

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Ryan Bourke testified that the house is a small two bedroom cape; that the second bedroom is the upstairs attic space; that they would like to add a full second floor to the house and have three bedrooms and two bathrooms upstairs and turn the existing bedroom on the first floor into a family/ playroom; that they are ready to start a family and would like all of the bedrooms on one floor; that they are not proposing any change to the existing footprint; that the shed existed on the property as is when they purchased the house; that they realize that it is over the property line by 1.4' but it is at least fifty years old and would probably fall apart if they tried to move it.

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 floor area ratio, building height, and accessory structure distance 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 Zoning Board of Appeals [or just "Board"]acknowledges the location of the existing shed and the Board does not authorize the encroachment onto the neighbors' property but grants a 0' setback.
3. The requested floor area ratio, building height and accessory structure distance 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.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, building height and accessory structure distance 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.
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.

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 floor area ratio, building height 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.

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, building height and accessory structure distance variances were presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
2014 JUL 21 PM 1 35
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, BUILDING HEIGHT AND ACCESSORY STRUCTURE
DISTANCE VARIANCES APPROVED**

To: Rick and Elizabeth Oliver
134 Prospect Place
Pearl River, New York 10965

ZBA # 14-50
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-50: Application of Rick and Elizabeth Oliver for variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Group Q, Column 4 (Floor Area Ratio: .30 permitted, .302 proposed) and from Section 5.227 : (Accessory Structure Distance from property line: 5' required, 1.8' existing & proposed for side yard and 3' existing for rear yard, 9" proposed) (Building Height: 15' permitted, 15.4' proposed) for an addition to an existing detached garage at an existing single-family residence. The premises are located at 134 Prospect Place, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 41; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Rick Oliver and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Oliver Cabana Floor Plan, Front Elevation, & Right Elevation" (3 pages)
2. Computer generated picture of the proposal.
3. Survey dated June 16, 1996 by William Youngblood, L.S..
4. A letter in support of the application signed by six abutting property owners.

Mr. Sullivan, Chairman, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Donald Brenner, Attorney, testified that he is representing Mr. Oliver and not charging a fee; that the garage exists in the present location and the setbacks are not actually changing; that the property is well kept and the floor area ratio is a minimal increase.

Rick Oliver testified that he would like to add a second floor to the existing garage to use a pool cabana; that the garage is set low on the property and the second story will be used at the pool level of the property; that it will provide a changing area, bathroom and hang out area for the pool; that there will be an exercise room, storage area for the patio furniture and room for the pool equipment.

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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 Mr. Quinn 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, building height, and accessory structure distance variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing garage is set low in the property and the purposed second story will appear like a single-story building from the street.
2. The pool cabana shall not be used as a dwelling unit, or residential apartment, or for sleeping /living quarters.
3. The requested floor area ratio, building height and accessory structure distance variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing garage is set low in the property and the purposed second story will appear like a single-story building from the street.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, building height and accessory structure distance 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.
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.

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

7. DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, building height and accessory structure variances are APPROVED with the specific condition that the pool cabana shall not be used as a dwelling unit, or residential apartment, or for sleeping /living quarters; 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 floor area ratio, building height and accessory structure distance variances with the specific condition that the pool cabana shall not be used as a dwelling unit, or residential apartment, or for sleeping /living quarters; were presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 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
2014 JUL 21 PM 1 35
TOWN CLERKS OFFICE

DECISION

**SIDE YARD VARIANCE APPROVED AS MODIFIED
REAR YARD VARIANCE REQUEST WITHDRAWN**

To: Morrie Brown
57 Ludlow Lane
Palisades, New York 10964

ZBA # 14-51
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-51: Application of Morrie Brown for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-80 District, Group A, Columns 9 (Side Yard: 30' required, 10' proposed), and 11 (Rear Yard: 50' required, 48.5' proposed) for a pool cabana at an existing single-family residence. The premises are located at 57 Ludlow Lane, Palisades, New York, and identified on the Orangetown Tax Map as Section 80.06, Block 1, Lot 25; R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Morrie Brown and William Pfaff appeared and testified.

The following documents were presented:

1. Site plan dated 04/03/2014 signed and sealed by Anthony R. Celentano, P.L.S.

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

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Morrie Brown testified that they are in the process of installing their pool; that they are proposing the pool cabana on the second tier of the property; that they are adjusting the design to save a 150 year old oak tree; that they would like to move the cabana to have a 13 foot side yard setback and a 58 foot rear yard setback; that in order to save the tree they need to make the cabana smaller and that they will go back to the historic board for those changes.

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 Mr. Quinn 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 variance, as modified to a 13' setback, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools and cabanas' have been constructed in the area.
2. The proposed pool cabana shall not be used as a dwelling unit, or residential apartment, or for sleeping /living quarters.
3. The requested side yard variance, as modified to a 13' setback, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar pools and cabanas' have been constructed in the area.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested side yard variance, as modified to a 13' setback, although somewhat 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.
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.

TOWN CLERKS OFFICE
2014 JUL 21 PM 1 36
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 variance, as modified to a 13' setback, 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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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance, as modified to a 13' setback; was presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2014 JUL 21 PM 1 36
TOWN CLERKS OFFICE

DECISION

FRONT YARD VARIANCE APPROVED

To: Rick Katzen
9 Colony Drive
Blauvelt, New York 10913

ZBA # 14-52
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-52: Application of Rick Katzen for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-40 District, Group E, Column 8 (Front Yard: 50' required, 43.75' proposed) for an addition to an existing single-family residence. The premises are located at 9 Colony Drive, Blauvelt, New York, and identified on the Orangetown Tax Map as Section 70.09, Block 3, Lot 60; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Rick and Celia Katzen appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/28/2008 signed and sealed by Margaret Fowler, Architect. (5 pages)

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

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Rick Katzen testified that they did a lot of work on the house in 2009 and at the time wanted to add a front porch but decided that the scope of the work was large enough without adding the porch at the time; that they have since decided to proceed with the porch and are before the Board because they need a front yard variance; and that there are other houses on the street with front porches.

TOWN OF ORANGETOWN
2014 JUL 21 PM 1 36
TOWN CLERKS OFFICE

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

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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 front yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

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The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 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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DECISION

FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Jay Greenwell (SMK Homes)
85 Lafayette Avenue
Suffern, New York 10901

ZBA # 14-53
Date: July 2, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 14-53: Application of SMK Homes for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .25 proposed) 8 (Front Yard: 30' required, 29.3' proposed) and 12 (Building Height: 20.1 permitted, 26' proposed) to complete construction of a single-family residence. The premises are located at 75 Mountain View Avenue, Pearl River, New York, and identified on the Orangetown Tax Map as Section 69.17, Block 5, Lot 1.2; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 2, 2014 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 03/05/2013 with the latest revision date of 06/09/ 2014 signed and sealed by Robert Hoene, Architect. (2 pages)
2. Plot plan for lot #2 Charles Subdivision dated 07/07/05 with the latest revision date of 06/05/ 2014 signed and sealed by Jay A. Greenwell, Land Surveyor.

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

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Jay Greenwell, Land Surveyor, testified that he was involved in this project when the subdivision was purposed; that it originates as the Charles Subdivision; that the person that purchased the lot did not follow the approved plan; that the foundation that he installed was larger than it was suppose to be; that the property was foreclosed on and Mr. Keenan purchased it; that Mr. Hoene has been working with him to get an accurate as built on the foundation that was installed; that in order to proceed and correct the denuted lot they need the requested front yard, floor area ratio and building height variances; that the lot has been sitting in its present state for seven years and proceeding with construction will improve the lot for Mr. Charles and stabilize his lot.

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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 and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property has been cleared of trees and sitting in a horrible state of disrepair for years and granting the variances for the new owner to proceed with building will be a welcome improvement for the neighborhood.
2. The requested floor area ratio, front yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The property has been cleared of trees and sitting in a horrible state of disrepair for years and granting the variances for the new owner to proceed with building will be a welcome improvement for 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 floor area ratio, front 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. . The property has been cleared of trees and sitting in a horrible state of disrepair for years and granting the variances for the new owner to proceed with building will be a welcome improvement for 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.

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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 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 and building height variances were presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli 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: July 2, 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
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