

Minutes

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In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Pearl River Brick Building, 20-30 North William Street, Pearl River, N.Y. 68.16 / 6 / 3 & 4; CS zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:30 P.M.

Dated: March 5, 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

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TOWN OF ORANGETOWN

SPECIAL PERMIT DENIED

DECISION

To: Burton Dorfman (Zapata)
450 Piermont Avenue
Piermont, New York 10968

ZBA # 13-92
Date: December 4, 2013
March 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-92: Application of Zapata Restaurant for a Special Permit pursuant to Chapter 43 of the Orangetown Code (Zoning) Section 3.11, Column 7 #6 (All restaurants shall be within completely enclosed buildings, unless by Special permit of the Zoning Board of Appeals) for sidewalk dining. The property is located at 779 Route 340, Palisades, New York and are identified on the Orangetown Tax Map as Section 77.20, Block 2, Lot 24; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, December 4, 2013 and March 5, 2014 at which time the Board made the determination hereinafter set forth.

Adolfo Godinez, Adolfo J. Godinez and Burt Dorfman, Attorney, appeared and testified.

The following documents were presented:

1. Site plan with the proposed dining area hand drawn on it.
2. Zoning Board of Appeals Decisions #07-38 dated 04/18/2007 and #09-85 dated May 5, 2010.
3. A letter dated November 14, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated November 19, 2013 from the county of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A letter dated November 5, 2013 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
6. A letter dated December 3, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
7. An e-mail dated November 24, 2013 from Celeste Bestor.
8. A letter dated November 25, 2013 from Celeste Bestor, 793 Route 340 Palisades, NY.
9. Two more letters in opposition to the project.

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

Burt Dorfman, Attorney testified that they are before the Board for an appeal or interpretation of the Building Inspector; that the application does not require a variance for the sidewalk dining; that it does require review by the Architectural Review Board only; that side walk dining is renewed yearly and every year to Building Department has the right to revoke it; that a Special Permit if forever; that they are showing 9 tables with four chairs each; that they are not proposing any landscaping; that he was told that he did not need a certified engineer or architect drawing for the application; that they are requesting the Board to reverse John Giardiello's determination that they do not need a Special Permit or if the Board determines that they do need one, they request that it be granted; that the nearest resident access

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the sign for the restaurant blocks them; that the proposed tables are 150' from the next property; that there are hedges on the property along the southerly side; that no wall or plantings or proposed; that this operation would be seasonal and limited to 10:00 P.M.; that every year they would pay a fee and the Town can extend it or deny it; that the Sidewalk Dining regulations are very specific; that the first application that was denied in 2007 was for an area behind the restaurant with pavers, many tables and a three foot wall; that the second application also was proposed for the rear of the restaurant with a paved area, many tables and a bar area; that this application is very different; and went through the requirements for a Special Permit.

Public Comment:

Roger Bester, 793 Route 340, Palisades testified that he was present for the last hearing when the applicant presented sound experts; that he has a very nice restaurant but the neighborhood does not want outside dining because it will create noise; that the voices would bounce and disturb the neighborhood.

Linda McErlean, 769 Route 340, Palisades, testified that she is against any lights and sound outside that it will affect the property values.

Celeste Bester, 793 Route 340, Palisades, testified that the sidewalk exists because 15 years ago the neighbors begged for a sidewalk after a fatal accident; that the other place on Route 9W that got permission for tables outside is not in the center of a residential neighborhood; that if this is permitted everyone will hear it.

Viatcheslav Pronkin, 39 Iroquois Ave., testified that he cannot picture where nine tables would fit in the front of the restaurant; that it would not be safe with route 340 traffic; that this is a quality of life issue for himself and his neighbors; that there is no outdoor dining and there should be any outdoor dining in this residential neighborhood.

Blakley Mc Guire, 35 Iroquois Ave., testified that she moved into he house two days ago; that she lives directly above the restaurant; that they do hear customers in the parking lot and they moved here for peace and quiet and are against any outdoor dining.

Helen Schuler, 10 Maroney Ave., testified that she has lived in her home for forty years; and she would like to know if the parking lot is changing and if they would be adding pavers or patio blocks; and that the cliff is behind the restaurant and acts like a Greek Theatre amplifying the sound.

Carlos Hedaria, 785 Route 340, testified that lives right next door to the restaurant; that he can hear people talking now as they walk to the car; that people use the sidewalk to walk to the bus to jersey and that he cannot imagine nine tables in that small area of grass.

Susan Walters, 9 Yadanza Court, testified that her deck looks down on the area of the restaurant; that outdoor dining would take away any pleasure she gets from her deck because it would be too noisy to sit out there.

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Joanne Pedersen, 800 Route 340, testified that she has lived in her house for ten years; that she is four down and across the street from the restaurant; that the area is not as quiet and peaceful as the neighbors say; that the restaurant is closed by 10:30' that if there was noise the police could e called; that she thinks this is a wonderful idea and the Board should consider it.

Steve Geller, 755 Route 340, testified that he also lives about four houses down and he would not have a problem with the application.

Diane Langmuir, 37 Iroquois, testified that she has lived in br hose for 34 years; that the police have been called before; that she has called three times for noise in the parking lot; that the noise rises from the site; that it is upsetting to have to hear this application again; that they were already denied twice for outdoor dining; and how close to the street would these tables be?

Abedin Astafa, 762 Route 340, across the street from Steve, testified that he is new to the neighborhood; that he is inherently against adding more noise to the neighborhood; and that the outdoor dining would add more noise.

There was discussion between the Board and the Deputy Town Attorney regarding the State Environmental Quality Review Act and if Chapter 31B of the Code of the Orangetown Code would be the proper section of the Code to refer to and, if it is, the Zoning Board would need to declare themselves Lead Agency and notices would need to be mailed out; and at this time, the applicant requested a continuance until SEQRA could be addressed. It was then announced by the Board to all in attendance that the Public Hearing was being kept open and continued to a future meeting for the sole purpose of addressing SEQRA only.

At the meeting of March 5, 2014 the discussion regarding SEQRA was settled.

Burt Dorfman, Attorney, and Aldopho Godinez appeared.

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

Dan Sullivan questioned the applicant regarding the minimum number of tables that they would find acceptable if the Board decided to grant a Special Permit for sidewalk dining and the applicant responded that five tables would be acceptable if they could come back next year to increase the number. Dan Sullivan said he was thinking of two tables of four.

There was no call for public comment.

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

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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 Special Permit is granted do not outweigh the detriment to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested special permit for sidewalk dining will produce an undesirable change in the character of the neighborhood and be a detriment to nearby properties. The restaurant is a pre-existing non-conforming use within a residential district, and as such, is surrounded by single-family residences; and noise from customers is an inherent part of any restaurant business. Testimony from at least 12 surrounding neighbors all addressed the existing noise problems coming from the restaurant. The addition of 36 people eating and drinking outside will significantly and adversely impact upon the surrounding property owners by devaluing their properties and by interfering with and preventing the peaceful, quiet enjoyment of their properties, especially during the warm weather, when the neighbors will not be able to sit outside without being impacted by the noise from the proposed outdoor dining.
2. The requested special permit for sidewalk dining will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The restaurant is a pre-existing non-conforming use within a residential district, and as such, is surrounded by single-family residences; and noise from customers is an inherent part of any restaurant business. Testimony from at least 12 surrounding neighbors all addressed the existing noise problems coming from the restaurant. The addition of 36 people eating and drinking outside will significantly and adversely impact upon the surrounding property owners by devaluing their properties and by interfering with and preventing the peaceful, quiet enjoyment of their properties, especially during the warm weather, when the neighbors will not be able to sit outside without being impacted by the noise from the proposed outdoor dining.

3. Although the proposed sidewalk dining will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities, and will not cause undue traffic congestion or create a traffic hazard; the sidewalk dining will:
- (a) adversely affect the character of, or property values in, the area,
 - (b) create, at any point of determination set forth in Orangetown Zoning Code § 4.16, § 4.17 and § 4.18, the objectionable element of noise, as referred to in § 4.11, more than is characteristic of the uses expressly permitted as of right in the Zoning District and in a manner or amount as to adversely affect the surrounding area, and
 - (c) otherwise impair the public health, convenience, comfort, prosperity and/or other aspects of the general welfare of the surrounding neighborhood and community.

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

General Conditions:

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

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

The foregoing resolution to deny the application for the requested special permit for sidewalk dining was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, nay; and Mr. Bosco, nay. Mr. Feroldi 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: March 5, 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

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DECISION
PERFORMANCE STANDARDS APPROVED

To: Anthony DeRobertis (Our Lady Emergency Generator) ZBA # 14-15
P.O. Box 216 Date: March 5, 2014
Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-15: Application of Our Lady of Sacred Heart for a review pursuant to Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 4.12 Performance Standards Review of a 20 kw natural gas emergency generator. The premises are located at 110 Kings Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 11 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 5, 2014 at which time the Board made the determination hereinafter set forth.

Richard Neely appeared and testified.

The following documents were presented:

1. Copy of Site Plan with generator drawn on it.
2. Generac Guardian Series 14/17/ 20Kw residential standby generators air-cooled gas engine (5 pages).
3. Performance standards resume of operation and equipment form dated January 29, 2014.
4. Fire prevention supplement form.
5. A letter dated January 31, 2014 from the Town of Orangetown, Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Commissioner.
6. A letter dated January 30, 2014 from the Town of Orangetown, Bureau of Fire Prevention signed by Michael B. Bettmann, Chief Fire Inspector.
7. A letter dated February 24, 2014 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.

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 based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Bosco, aye. Mr. Feroldi was absent.

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

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Anthony DeRobertis testified that they are proposing to install a 20 kw natural gas emergency generator in the back right corner of the church; that it will run at 66 decipal at 23'; that it is approximately 30 to 35' from the property line; that it will run once a week for ten minutes for a required test; and that it will be screened by white pines.

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 the documents presented, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated January 31, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to Zoning Code § 4.1 Performance Standards, and the memorandum dated January 30, 2014 from Michael Betmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEMF, and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown B.F.P.; **AND FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve, with aforesaid conditions, the application for Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Bosco; aye. Mr. Feroldi was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: February 19, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN


Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

**FRONT YARD VARIANCE RE-AFFIRMED AND ACCESSORY STRUCTURE
VARIANCE APPROVED**

To: MiKyong Hyun
42 Woods Road
Palisades, New York 10964

ZBA # 14-16
Date: March 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-16: Application of MiKyong Hyun for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, Group E, Columns 8 (Front Yard: 50' required, 10.4' existing for the existing studio and a portion of the new addition will also be in the 50' setback) and from Section 5.153 (Accessory Structure: not permitted in the front yard and shed is 4' from the front lot line) for an addition to an existing cottage and rebuilding of existing shed in disrepair. The premises are located at 139 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 2, Lot 13.1; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 5, 2014 at which time the Board made the determination hereinafter set forth.

MiKyong Hyun appeared and testified.

The following documents were presented:

1. Architectural plans dated 01/30/2014 signed and sealed by John Ricotta, Architect. (2 pages)
2. A copy of an article about the restoration of the house in the Palisades newsletter.

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

MiKyong Hyun testified that she and her husband purchased the property in 2005; that it took some time to subdivide the property; that she has spent the last two years and eight months to fix the Mann House; that during that time she has tarped the existing shed. Planning to rebuild it in kind; that the storage shed completely caved in during Super Storm sandy; that she started to rebuild it and Bert VanWurmb, the building inspector, told her that she needed to go to the Zoning Board for a variance to rebuild the shed because it is in a front yard; that if it had not collapsed she could have fixed it because of its pre-existing non-conforming location; that she would like to keep it in its present location but has shortened it to protect the existing large tree close to the shed; that the shed will be used to store gardening equipment and will not house a car; that it will have landscaping and grass around it.

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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 accessory structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The subject shed replaced a shed that had existed in this location for many years.
2. The requested accessory structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The subject shed replaced a shed that had existed in this location for many years.
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 accessory structure variance, although somewhat substantial, affords benefits to the applicant that is not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The subject shed replaced a shed that had existed in this location for many years.
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 accessory structure location variance is APPROVED and the change or modification to the front yard variance is acknowledged and reaffirmed; 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 accessory structure location variance and reaffirmation and acknowledgment of front yard variance as changed/modified was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Feroldi 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: March 5, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN


By *Deborah Arbolino*
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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2014 MAR 24 PM 1 17

TOWN OF ORANGETOWN

DECISION

**FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES
APPROVED**

To: Thean Traynor
2 Gary Lane
Orangeburg, New York 10962

ZBA # 14-17
Date: March 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-17: Application of Thean Traynor for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, Group I, Columns 8 (Front Yard: 25' required, 22.12' proposed), 9 (Side Yard: 10' required, 8' proposed) and 12 (Building Height: 20' permitted, 21.6' proposed) (Section 5.12 undersized lot applies) for an addition to an existing single family residence. The premises are located at 2 Gary Lane, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 4, Lot 33; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 5, 2014 at which time the Board made the determination hereinafter set forth.

Thean and Colleen Traynor and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 11/15/2013 signed and sealed by Robert Hoene, Architect. (3 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 Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Ms. Albanese; aye; and Mr. Sullivan, aye. Mr. Feroldi was absent.

Robert Hoene, Architect, testified that the applicant would like to add a master bedroom and bathroom over the existing garage and a small front porch; and that one of the existing bedrooms would be used for the hallway to the new bedroom.

Thean Traynor testified that the existing shed is not on a foundation and that he would move it to be in compliance with the Zoning Code.

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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 front yard, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area. The applicant has agreed to move the existing shed to be in compliance with the zoning code.
2. The requested front yard, side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area. The applicant has agreed to move the existing shed to be in compliance with the zoning code.
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 front yard, side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area. The applicant has agreed to move the existing shed to be in compliance with the zoning code.
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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The foregoing resolution to approve the application for the requested front yard, side yard and building height variances with the specific condition that the applicant re-locate the existing storage shed to be in compliance with the Orangetown Zoning Code; was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Ms. Albanese, aye; and Mr. Sullivan, aye. Mr. Feroldi 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: March 5, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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