

MINUTES
ZONING BOARD OF APPEALS
May 18, 2016

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

ABSENT: NONE

ALSO PRESENT:	Dennis Michaels, Esq.	Deputy Town Attorney
	Ann Marie Ambrose,	Official Stenographer
	Cheryl Coopersmith,	Chief Clerk

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

GEORGE'S AUTO BODY 579 Route 303 Blauvelt, NY 70.15/ 1 / 47; CC zone	§9.34, § 13.10b(2), (4) & (11) § 3.11, column 7 #3 (Outdoor Storage of Vehicles), Front Yard, Land Coverage, and Parking Space VARIANCES APPROVED	ZBA#16-36
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DE MARIA 15 Salina Road Pearl River, N.Y. 68.11 / 2 / 67; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#16-37
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SALOON GENERATOR PERFORMANCE STANDARDS 49 West Central Avenue Pearl River, NY 68.16 / 1 / 9; CC zone	PERFORMANCE STANDARDS APPROVED WITH SPECIFIC CONDITIONS	ZBA#16-38
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ANDREWS 62 Delo Drive Tappan, NY 77.07 / 1 / 10; R-15 zone	FLOOR AREA RATIO (as corrected), TOTAL SIDE YARD, AND REAR YARD VARIANCES APPROVED	ZBA#16-39
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PROCORE PHYSICAL THERAPY SIGN 100 North Middletown Road Pearl River, NY 69.13 / 1 / 3; CC zone	SIGN SIZE VARIANCE APPROVED	ZBA#16-40
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VESEY 25 Garrecht Lane Pearl River, NY 69.18 / 3 / 11; r-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#16-41
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TOWN OF CROMBETOWN
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CONTINUED ITEM:

BRANT POOL
11 Renie Lane
Blauvelt, NY
70.13 / 2 / 19; R-15 zone

SIDE YARD AND REAR
YARD VARIANCES APPROVED
AS MODIFIED

ZBA#16-33

OTHER BUSINESS:

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: 628 Route 303 Internal Commercial Subdivision, 628 Route 303, Blauvelt, NY; 65.14 / 1 / 9; LI 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: May 18, 2016

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 CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

ZONING CODE §9.34 50% EXTENSION/ENLARGEMENT OF NON-CONFORMING USE, § 13.10 ROUTE 303 OVERLAY VARIANCES, OUTDOOR STORAGE OF VEHICLES, FRONT YARD, LAND COVERAGE, AND PARKING SPACE VARIANCES APPROVED

To: Jay Greenwell (George's Auto Body)
85 Lafayette Avenue
Suffern, New York 10901

ZBA #16-36
Date: May 18, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 16-36: Application of George's Auto Body for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 9.34 (Extension/Enlargement of pre-existing non-conforming use: less than 50% extension/enlargement), Section 13.10B (2) (25' vegetative buffer required: 0' proposed); Section 13.10 B (4) (No signs within the 25' vegetative buffer: sign over entry door within the buffer); Section 13.10 B(11) (one curb cut permitted: 3 curb cuts exist); Section 3.11 Column 7 #2 refers to CS District Column 7 #3 (Outdoor Storage of Vehicles: vehicles delivered for auto body work are left outside until work commences); Section 3.12, CC District, Column 8 (Front Yard: 0' or 45' required, 19.7' and 33.2' exist from Route 303 and Erie St. respectively); Section 3.11/3.12 Notes to Use and Bulk Tables #14 (Land Coverage: (75% permitted, 90.7% existing, and 90.5% proposed) and from Section 3.11, LI District, Column 7, #6(b) 39 parking spaces required; 18 outdoor and 9 indoor spaces provided) to rebuild and expand an existing auto body business that was damaged by fire. The premises are located at 579 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 47; CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2016 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor and Raffi Balabanian appeared and testified.

The following documents were presented:

1. Site plan for George's Auto Body dated December 14, 2015 with the latest revision date of 3/29/2016 signed and sealed by Jay A. Greenwell, L.S. and Paul Gdanski, P.E.
2. Architectural plans labeled "George's Auto Body Rear Expansion" dated January 11, 2016 signed and sealed by Kier B. Levesque, Registered Architect. (4 pages)
3. A letter dated April 20, 2016 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated April 29, 2016 from the Rockland County Department of Planning signed by Douglas Schuetz, Acting 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 that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

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Jay Greenwell, Land Surveyor, testified that the construction is on-going on the site since it was destroyed by fire; that the insurance is paying for the reconstruction of the original building but the applicant has decided to expand the building so the construction is being done in two phases; that they went to the Planning Board for phase 2 and they were told that they need multiple variances since the site is in the overlay zone; that they are requesting that the Board override #5 of the County's letter because they need the striped area for turning onto Route 303; that the state put this is themselves; that in 1986 John Atzl's site plan shows the auto body use and it was a non-conforming use; that the vegetative buffer could not exist and meet all the requirements because of the location of the building; that the site contains curb cuts that NYS DOT designed and one curb cut will be removed; that he hardships are that this is a corner lot with two front yards; that the situation was made worse by the improvements made to Route 303 by the DOT and the taking of property for those improvements; that the existing use of the property has been in the same family continuously for many years and will continue that way.

Raffe Balabanian, owner, testified that the building is existing and the situation was made worse by the widening of Route 303 by the state; that the general appearance of the site will be greatly improved by the development of the site; that they hold cars on the site for the police and they have cars waiting for paint and a number of cars that are already painted.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested §9.34 50% extension/enlargement of pre-existing non-conforming use, §13.10 Route 303 Overlay variances, outdoor storage of vehicles, front yard, land coverage and parking space variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. George's Auto Body has existed at this location since 1986 and is before the Board today because there was a fire and the changes proposed will improve the look of the business and its operation.
2. This is the one time 50% extension/enlargement of pre-existing non-conforming use, pursuant to Zoning Code §9.34.

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3. The requested §9.34 50% extension/enlargement of pre-existing non-conforming use, §13.10 Route 303 Overlay variances, outdoor storage of vehicles, front yard, land coverage and parking space variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. George's Auto Body has existed at this location since 1986 and is before the Board today because there was a fire and the changes proposed will improve the look of the business and its operation.
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 §9.34 50% extension/enlargement of pre-existing non-conforming use, §13.10 Route 303 Overlay variances, outdoor storage of vehicles, front yard, land coverage and parking space 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. George's Auto Body has existed at this location since 1986 and is before the Board today because there was a fire and the changes proposed will improve the look of the business and its operation.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested §9.34 50% extension/enlargement of pre-existing non-conforming use, §13.10 Route 303 Overlay variances, outdoor storage of vehicles, front yard, land coverage and parking space variances are APPROVED, and item #5 of the Rockland County Department of Planning letter dated April 29, 2016 signed by Douglas J. Schuetz, Acting Commissioner, is overridden; 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.

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(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.

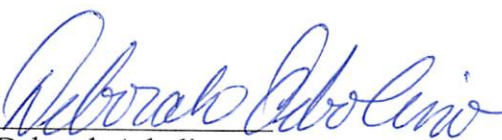
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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.

The foregoing resolution to approve the application for the requested §9.34 50% extension/enlargement of pre-existing non-conforming use, §13.10 Route 303 Overlay variances, outdoor storage of vehicles, front yard, land coverage and parking space variances, and item#5 of the Rockland County Department of Planning letter dated April 29, 2016 signed by Douglas J. Schuetz, Acting Commissioner, is overridden; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
2016 JUN 3 PM 1 25
TOWN OF ORANGETOWN

DECISION

REAR YARD VARIANCE APPROVED

To: Michael and Colleen DeMaria
15 Salina Road
Pearl River, New York 10965

ZBA #16-37
Date: May 18, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-37: Application of Michael and Colleen DeMaria for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 11 (Rear Yard: 35' required, 23.7' proposed) for a deck at an existing single-family residence. The premises are located at 15 Salina Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 2, Lot 67; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2016 at which time the Board made the determination hereinafter set forth.

Michael and Colleen DeMaria appeared and testified.

The following documents were presented:

1. Site plan with proposed deck drawn on it and deck specifications.
2. A letter dated April 28, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. Five letters from neighbors in support of the application.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Michael DeMaria testified that due to the placement of the basement window on the side of the house this is the only place to build the deck; the proposed deck is 14 foot wide and the lot is oddly shaped; that he purchased the house in January and the deck will be off the living room/den; and many of the houses in the neighborhood have similar decks.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the area.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks 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 rear yard variance, 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 decks have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area 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 rear yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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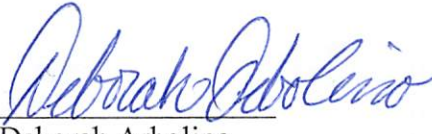
TOWN OF ORANGETOWN

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

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION

PERFORMANCE STANDARDS APPROVED

To: Donald Brenner (Saloon Generator)
4 Independence Avenue
Tappan, New York 10983

ZBA #16-38
Date: May 18, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-38: Application of The Saloon for approval as per Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 4.12 Performance Standards for an emergency generator at an existing restaurant . The premises are located at 49 West Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 9; in the CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2016 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Bridget Killen, owner, , Robert Lutz and John Bruni appeared and testified.

1. Roof plan with proposed plot plan (1 page) signed and sealed by Barbara Marks, Architect.
2. Generac Standby generator spec sheets (9 pages).
3. Use Subject to Performance Standards Resume of Operations and Equipment dated April 5, 2016.
4. Fire Prevention Supplement.
5. A letter dated April 28, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated April 27, 2016 from the County of Rockland Drainage Agency signed by Vincent Altieri, Executive Director.
7. A memorandum dated April 13, 2016 from Town of Orangetown, Chief Fire Inspector, Michael B. Bettmann.
8. A letter dated May 6, 2016 from the Department of Environmental Management and Engineering, Town of Orangetown signed by Joseph J. Moran, P.E., Commissioner.
9. Submitted at the meeting: Technical information bulletin for Kohler Power Systems TIB-114 Generator Set Sound Data Sheet (13 pages).

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, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the 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: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Mr. Bosco, aye.

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Donald Brenner, Attorney, testified that he would like to submit the specs for the Kohler Power system generator; that the Kohler generator is larger and longer in length; that the sound is the same that it is approximately 130 inches long and the weight is a little heavier; that the sound meets the building department requirements that he generator will run only in times of an emergency and since the significant flood a few years ago it is a vital part of the business; that it will run weekly for testing, probably in the morning when the restaurant is not in use; and they have no objection to the new submission being reviewed by the Fire Inspector and the DEME.

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

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated May 6, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated April 13, 2016 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., 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 submitted, the Board **RESOLVED** that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the following **SPECIFIC CONDITION:** Subject to and conditioned upon Joseph J. Moran, P.E., Commissioner of D.E.M.E., and Michael B. Bettmann, Chief Fire Inspector of B.F.P, reviewing the Kohler Power Systems Emergency Generator Specification, and reporting to John Giardiello, P.E., Director of O.B.Z.P.A.E., that there will be no changes to their respective 05/06/2016 and 04/13/2016 reports; **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.

TOWN CLERKS OFFICE

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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, with the foregoing Specific Condition, the application for the requested Performance Standards Review was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Bosco, aye.

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, TOTAL SIDE YARD AND REAR YARD VARIANCES
APPROVED**

To: Jane Slavin (Andrews)
200 Erie Street East Suite 1E
Blauvelt, New York 10913

ZBA #16-39
Date: May 18, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-39: Application of Elsy Andrews for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .25 proposed: .235 approved), 10 (Total Side Yard: 50' required, 48' proposed) and 11 (Rear Yard: 35' required, 28' proposed) for an addition to an existing single-family residence. The premises are located at 62 Delo Drive, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.07, Block 1, Lot 10; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2016 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, and Bernard Caparelli, son-in-law, appeared and testified.

The following documents were presented:

1. Architectural plans dated 3/14/2016 with the latest revision date of 1/12/ 2016 signed and sealed by Jane Slavin, Architect.
2. A letter dated April 28, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated April 12, 2016 from the County of Rockland Division of Environmental 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. Castelli and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Jane Slavin, Architect, testified that she has a correction to the proposed floor area ratio and it is .235; that the proposal is for an addition to the master bedroom suite, front entry and garage; that the lot is oddly shaped that the applicant has owned the house since 1983 and her daughter is moving in; that the designated street line is 10 feet into the lot and the basement is above ground and included in the floor area ratio calculations.

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TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, total side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The Architect corrected the requested Floor Area Ratio from .25 to .235.
3. The requested floor area ratio, total side yard, and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
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, total side yard and rear yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the neighborhood.
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

2016 JUN 3 PM 1 26

TOWN OF ORANGETOWN

DECISION: In view of the foregoing, and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio (corrected to .235 by architect), total side yard, and rear yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio (corrected by Architect to .235), total side yard and rear yard variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

TOWN CLERK
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERKS OFFICE

DECISION

SIGN AREA VARIANCE APPROVED

To: Greg Stemkowski (ProCore)
100 N. Middletown Road
Pearl River, New York 10965

ZBA #16-40
Date: May 18, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-40: Application of Procore Physical Therapy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 3.11 Column 5 paragraph 3 (Sign size: 40 sq. ft. permitted, 72 sq. ft. proposed) for a box light sign mounted on the exterior of the building. The premises are located at 100 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.13, Block 1, Lot 3; in the CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2016 at which time the Board made the determination hereinafter set forth.

Greg Stemkowski appeared and testified.

The following documents were presented:

1. Computer generated pictures (2) of the proposed sign shown on the building.
2. A letter dated April 29, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting 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 that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Greg Stemkowski testified that he rents space from Retro Fitness; that he has his own entrance on the side of the building and also through Retro Fitness; that the public does not realize he is there without a sign; and he needs a variance for the size of the sign.

TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERK'S 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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested sign area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar size signs exist in the shopping center and the applicant needs the sign to show the public his location.
2. The requested sign area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar size signs exist in the shopping center and the applicant needs the sign to show the public his location.
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 sign area variance, 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 size signs exist in the shopping center and the applicant needs the sign to show the public his location.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN

2016 JUN 3 PM 1 26

TOWN OF ORANGETOWN

DECISION: In view of the foregoing, and the testimony and documents presented, the Board: RESOLVED, that the application for the requested sign area variance is APPROVED, and the Rockland County Department of Planning disapproval letter dated April 29, 2016, signed by Douglas J. Schuetz, Acting Commissioner of Planning, is overridden; 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 OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested sign area variance and to override the Rockland County Department of Planning disapproval letter dated April 29, 2016, signed by Douglas J. Schuetz, Acting Commissioner of Planning, was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By



Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE
2016 JUN 3 PM 1 26
TOWN OF ORANGETOWN

DECISION

FRONT YARD VARIANCE APPROVED

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

ZBA #16-41
Date: May 18, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-41: Application of Thomas Vesey for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 8 (Front Yard: 30' required, 28.9' proposed) for an existing single-family residence that was built 1.1' within the front yard requirement.. The premises are located at 25 Garrecht Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, 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, May 18, 2016 at which time the Board made the determination hereinafter set forth.

Jonathan Hodash appeared and testified.

The following documents were presented:

1. As-built Map for Thomas Vessey dated April 18, 2016 signed and sealed by Robert E. Sorace, Land Surveyor.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Jonathan Hodash testified that the house was built 1.1 foot over the front yard requirements by mistake; that this was discovered when the as-built survey was done; and they would ask the Board for their understanding on the error; that they do not know how it happened.

TOWN CLERK'S OFFICE

2016 JUN 3 PM 1 26

TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The house is already built.
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. The house is already built.
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. The house is already built.
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.

TOWN CLERK'S OFFICE

2016 JUN 3 PM 3 26

TOWN OF ORANGETOWN

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

TOWN CLERK'S OFFICE

2016 JUN 3 PM 1 26


TOWN OF ORANGETOWN

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

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERKS OFFICE

DECISION

**SIDE YARD AND REAR YARD VARIANCES APPROVED AS MODIFIED TO
10' REAR YARD AND 15' SIDE YARD**

To: Robert Brant
11 Renie Lane
Blauvelt, New York 10913

ZBA #16-33
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-33: Application of Robert Brant for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 20' required, 10' proposed) and from Section 5.227 (Rear Yard: 20' required, 10' proposed) for an in-ground pool at an existing single-family residence. The premises are located at 11 Renie Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.13, Block 2, Lot 19; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on the following Wednesdays, May 4, 2016 and May 18, 2016 at which time the Board made the determination hereinafter set forth.

Robert Brant appeared and testified ON May 4, 2016 and May 18, 2016.

The following documents were presented:

1. Site plan with proposed pool drawn on it and pool specifications.
2. An e-mail from an abutting property owner asking that the pool be moved to northwest section of the Brandt property.
3. One 8' x 10' color picture of fence.

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

At the May 4, 2016 meeting: on advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Ms. Salomon, Mr. Sullivan and Mr. Feroldi were absent.

At the May 4, 2016 meeting, Robert Brant testified that his property is wide and he is requesting a ten foot rear yard setback for the pool and a ten foot side yard setback for the pool; that on the left side of his yard is a swing set and shed and he is eventually planning to add a garage; that the pool he is proposing to install is 18' x 36' and if he moved it to have a fifteen foot rear and side yard, the space behind the pool would be wasted yard space; and he would like a continuance because there are only three board members present.

At the May 18, 2016 meeting, Robert Brant testified that there are three other pools in the neighborhood that have five foot set-backs from the property line; that he submitted a picture of that portion of his yard showing the six-foot fence and all of the trees on the neighbors' property that block the view; that he insisted that he is respectful of his neighbors and requested a 12 foot side yard and a 10' rear yard.

TOWN OF ORANGETOWN
JUN 3 2016
OPEN CLEARED
26

Public Comment:

At the May 18, 2016 meeting Andrew McClosky testified that he has had discussions with the applicant and the applicant plans to add to his house on the other portion of the rear yard in the future.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and rear yard variances, as modified to 10' rear yard and 15' side yard, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested side yard and rear yard variances, as modified to 10' rear yard and 15' side yard, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 modified 15' side yard and 10' rear yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the modified 15' side yard and 10' rear yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

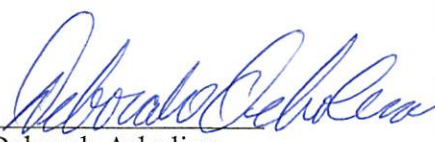
TOWN OF ORANGETOWN
2016 JUN 3 PM 1 26
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the modified 15' side yard and 10' rear yard variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: May 18, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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