

ADDITIONAL 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: The Saloon Site Plan, 45-49 West Central Avenue, Pearl River, NY 68.16 / 1 / 9; CS zone; Roland Commercial Subdivision Plan, 401-407 Western Highway, Tappan, NY 74.18 / 3 / 31; LO 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 11:10 P.M.

Dated: November 6, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino
Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN OF ORANGETOWN
2013 DEC 4 PM 1 28
TOWN CLERKS OFFICE

DECISION

TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED

To: John Foody
53 Greywood Drive
Orangeburg, New York 10962

ZBA # 13-79
Date: November 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-79: Application of John Foody for variances from Chapter 43 (Zoning) of the Orangetown Code, RG District, Section 3.12, Group Q, Columns 10 (Total Side Yard: 30' required, 27.5' proposed) and 11 (Rear Yard: 25' required, 20.9' proposed) for a deck at an existing single-family residence, The premises are located at 53 Greywood Drive, Orangeburg, New York and identified on the Orangetown Tax Map as Section 74.13, Block 4, Lot 51; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2013 at which time the Board made the determination hereinafter set forth.

John Foody appeared and testified.

The following documents were presented:

1. Survey with deck drawn on it.
2. Seven pages of deck plans.
3. Three letters in support from abutting property owners.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

John Foody testified that he purchased the house a year and a half ago; that there was a weird structure on the rear of the house with cement stairs and a wooden structure built off of them that was not safe; that this odd structure did not have footings; that the structure was built improperly and was causing water to pour into his basement every time it rained; that he removed the structure and put everything outside on hold while he worked to make the inside of the house habitable; that he applied for a permit to build a deck in the same location of the odd structure and was denied because he needs a variance; that the house sits on an angle to the property line, which is part of the problem and that he is requesting to go out fourteen feet so that he can comfortably seat his family around a table on the deck; and that his three closest neighbors have seen the plans and have no objections.

TOWN CLERKS OFFICE
2013 DEC 4 PM 1 28
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested 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. The existing house was built on an angle to the property line and the proposed deck is not extending beyond the existing line of the house.
2. The requested 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.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested total side yard and 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 CLERKS OFFICE
2013 DEC 4 PM 1:28
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested total side yard and 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 CLERKS OFFICE
2013 FEB 4 PM 1 28
TOWN OF ORANGETOWN

Foody
ZBA#13-79
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The foregoing resolution to approve the application for the requested total side yard and rear yard variances was presented and moved by Mr. Bosco, seconded by Ms. Albanese and carried as follows: Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, 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: November 6, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2013 DEC 4 PM 1 28
TOWN CLERKS OFFICE

DECISION

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

To: Pamela Vinci
51 Oldert Drive
Pearl River, New York 10962

ZBA # 13-81
Date: November 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-81: Application of Pamela Vinci for variances from Chapter 43 (Zoning) of the Orangetown Code, R-15 District, Section 3.12, Group M, Columns 8 (Front Yard: 30' required, 13' existing) 9 (Side Yard: 20' required, 4.5' existing), and 12 (Building Height: 4.5' permitted, 9.9' existing) for an existing addition to an existing single-family residence, The premises are located at 61 Oldert Drive, Pearl River, New York and identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 66; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2013 at which time the Board made the determination hereinafter set forth.

Pamela Vinci appeared and testified.

The following documents were presented:

1. Site plan dated October 16, 2013 signed and sealed by Clifford A. Herbst, P.E..
2. Architectural plans dated 09/09/2013 with the latest revision date of 10/11/2013 signed and sealed by Clifford A. Herbst, P.E..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye; and Mr. Bosco; aye.

Pamela Vinci testified that this was her childhood home from the 1970's; that her Mom passed away 2 ½ years ago and she is trying to sell the house; that she found out recently that there is no certificate of occupancy for the enclosed porch; that she is before the Board to make the addition legal and to do so, she needs these variances; that she does remember going to meetings with her Dad when she was young but doesn't know what happened; that there is a certificate of occupancy for the addition by the fireplace and she will have the site plan updated to show that addition.

TOWN CLERKS OFFICE
2013 DEC 4 PM 1:28
TOWN OF ORANGETOWN

Public Comment:

No public comment.

The Board members made personal inspections of the premises of 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. The addition and deck have existed for many years without complaint, and the applicant is trying to legalize work that was done by her parents so that the house can be sold.
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. The addition and deck have existed for many years without complaint, and the applicant is trying to legalize work that was done by her parents so that the house can be sold.
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.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE
2013 DEC 4 PM 1 28
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, side yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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


TOWN CLERKS OFFICE
2013 DEC 4 PM 1 28
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard, side yard and building height variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: November 6, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By: 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2013 DEC 4 PM 1 28
TOWN CLERKS OFFICE

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Frank Gallo
96 McKenna Street
Blauvelt, New York 10913

ZBA # 13-82
Date: November 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-82: Application of Frank Gallo for variances from Chapter 43 (Zoning) of the Orangetown Code, R-15 District, Section 3.12, Group M, Columns 9 (Side Yard: 20' required, 14.7' proposed), and 10 (Total Side Yard: 50' required, 35.9' proposed) for an addition to an existing single-family residence, The premises are located at 96 McKenna Street, Blauvelt, New York and identified on the Orangetown Tax Map as Section 70.14, Block 3, Lot 29; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2013 at which time the Board made the determination hereinafter set forth.

Frank Gallo and Richard La Placa, contractor, appeared and testified.

The following documents were presented:

1. Survey with garage addition drawn on it.
2. Four pages of drawings for the proposed garage.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye; and Mr. Bosco, aye.

Richard La Placa testified that Mr. Gallo has a one car garage that he would like to expand to a two-car garage; that the access to the garage is through the basement of the house and if you turn to page three of the drawings you can see that the existing bump out for the closet infringes on the width; that they would like to request that the proposed garage be built two feet wider to allow a little more room to maneuver in and out of the cars; and he submitted a picture of the existing garage.

Frank Gallo testified that his wife works early in the morning and the second car fitting into a garage would be very useful; and that the neighbors across the street have a garage similar to his proposal.

TOWN CLERKS OFFICE
2013 DEC 4 PM 1 28
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

TOWN CLERKS OFFICE
2013 DEC 4 PM 1 28
TOWN OF ORANGETOWN

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

General Conditions:

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

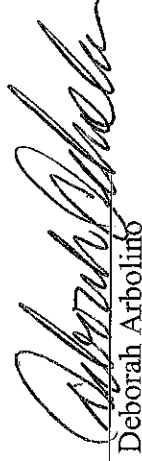
TOWN CLERKS OFFICE
2013 DEC 11 PM 1:28
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: November 6, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2013 DEC 4 PM 1 28
TOWN CLERKS OFFICE

DECISION

SIDE YARD, TOTAL SIDE YARD, BUILDING HEIGHT, ACCESSORY STRUCTURE SETBACK AND DISTANCE, AND SIDE YARD FOR A POOL VARIANCES APPROVED

To: Thomas Bertussi
200 West Central Avenue
Pearl River, New York 10965

ZBA # 13-83
Date: November 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-83: Application of Thomas and Joan Bertussi for variances from Chapter 43 (Zoning) of the Orangetown Code, R-22 District, Section 3.12, Group I, Columns 9 (Side Yard: 25' required, 13.2' existing), 10 (Total Side Yard: 60' required, 59.5' existing), 12 (Building Height: 10.6 permitted, 15' 10 ½" proposed); from Section 5.227 (Accessory Structure Setback from property line: 5' required, 2' and .3' existing for two sheds); Section 5.153 (Accessory Structure Distance: 15' required between shed: 2.2' existing) and from Chapter 33.4 Side Yard for pool: 25' required, 7.6' existing from cabana; 8.7' existing to spa, 11.9' existing from pool) at an existing single-family residence, The premises are located at 200 West Central Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.19, Block 3, Lot 1.1; R-22 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2013 at which time the Board made the determination hereinafter set forth.

Thomas and Joan Bertussi appeared and testified.

The following documents were presented:

1. Survey dated 01/21/2006 with the latest revision date of 03/01/2013 by Jay Greenwell PLS.
2. Architectural plans dated 02/22/2013 with the latest revision date of 05/20/2013 Albert Dattoli, Architect.

Mr. Sullivan, Chair, 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. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye; and Mr. Bosco, aye.

Tom Bertussi testified that most of the requested variances have already been installed; that the pool has existed for eight years; that variances were granted in 1998 but the file is lost; that he got a permit for the pool and it took three years to complete; that he is before the Board for an addition on the east side of the house to split the existing master bedroom up and create two bedrooms for his daughters; that on the west side of the house they would like to dormer the existing attic and make a master bedroom suite; that there have five children and a nanny; that the two sheds are existing and they could be moved and relocated but some trees would need to be removed to accommodate them; that the pool cabana is 7,6' from the property line and the spa is 8.7' from the property line.

TOWN CLERKS OFFICE
2013 DEC 4 PM 4
TOWN OF ORANGETOWN

Bertussi
ZBA#13-83
Page 2 of 4

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 side yard, total side yard, building height, accessory structure setback and distance, and side yard for pool variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested side yard, total side yard, building height, accessory structure setback and distance and side yard for pool variances 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 requested side yard, total side yard, building height, accessory structure distance and setback and side yard for pool 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 CLERKS OFFICE
2013 DEC 4 PM 1 28
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard, total side yard, building height, accessory structure distance and setback and side yard for pool variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

TOWN CLERKS OFFICE
2013 DEC 4 PM 1:28
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard, total side yard, building height, accessory structure distance and setback and side yard for pool variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, 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: November 6, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By: 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2013 DEC 4 PM 1 28
TOWN CLERKS OFFICE

DECISION
PERFORMANCE STANDARDS APPROVED

To: Anthony DeRobertis (St. Dominic's Home)
17 Yale Terrace
Blauvelt, New York 10913

ZBA # 13-84
Date: November 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-84 : Application of St. Dominic's Home for a review from Chapter 43 (Zoning) of the Orangetown Code, Section 4.12 Performance Standards Review of a 36kw gas generator at the "Sammon" building located on the premises of Saint Dominic's Home at 500 Western Highway, Blauvelt, New York and identified on the Orangetown Tax Map as Section 74.06, Block 3, Lot 1.1; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 6, 2013 at which time the Board made the determination hereinafter set forth.

Anthony DeRobertis, contractor and Dominic DiDomenico, Plant Operations Director, appeared and testified.

The following documents were presented:

1. Subdivision dated 07/10/2004 with the latest revision date 03/07/2005 signed and Theodore F. Atzl, PLS.
2. Generator Specification sheets.
3. Performance standards resume of operation and equipment form dated October 3, 2013.
4. Fire prevention supplement form.
5. A letter dated October 8, 2013 from the Town of Orangetown, Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Commissioner.
6. A letter dated November 5, 2013 from the Town of Orangetown, Bureau of Fire Prevention signed by Michael B. Bettmann, Chief Fire Inspector.
7. A letter dated October 28, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.

Mr. Sullivan, Chair, 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.

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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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 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 October 8, 2013 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 November 5, 2013 from Michael Bettmann, 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, DEME, and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

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

St. Dominic's Home Performance Standards

ZBA#13-84

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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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TOWN OF ORANGETOWN

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.

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: November 6, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By: 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
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