

MINUTES  
ZONING BOARD OF APPEALS  
SEPTEMBER 2, 2015

MEMBERS PRESENT:

JOAN SALOMON  
LEONARD FEROLDI, ALTERNATE  
THOMAS QUINN  
MICHAEL BOSCO  
PATRICIA CASTELLI

ABSENT:

DAN SULLIVAN

ALSO PRESENT:

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

LUCZAJ  
27 Wildwood Drive  
Pearl River, NY  
69.17 / 4 / 39; R-15 zone

SIDE YARD AND ZBA#15-63  
TOTAL SIDE YARD APPROVED  
AS MODIFIED

NEW ITEMS:

DRUM  
1 Jay Place,  
Pearl River, NY  
69.14 / 2 / 33; R-15 zone

SIDE YARD APPROVED ZBA#15-68

APRILE  
79 Walnut Street  
Blauvelt, NY  
70.15 / 1 / 31; R-15 zone

FRONT YARD AND ZBA#15-69  
BUILDING HEIGHT APPROVED

DOORLEY  
49 Secor Boulevard  
Pearl River, NY  
69.05 / 2 / 30; R-15 zone

FLOOR AREA RATIO, FRONT ZBA#15-70  
YARD, SIDE YARD, BUILDING HEIGHT  
VARIANCES APPROVED  
UNDERSIZED LOT APPLIES

CELTIC SHEETMETAL  
1 Corporate Drive  
Orangeburg, , NY  
73.20 / 1 / 32; LIO zone

SIDE YARD, REAR YARD, ZBA#15-71  
BUILDING HEIGHT, LOADING BERTH  
VARIANCES APPROVED

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FARLEY  
121 Lester Drive  
Tappan, NY  
77.06 / 1 / 50; R-15 zone

ACCESSORY STRUCTURE ZBA#15-72  
FRONT YARD LOCATION APPROVED

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:35 P.M.

Dated: September 2, 2015

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

**SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED**

To: Mario Luczaj  
27 Wildwood Drive  
Pearl River, New York 10965

ZBA #15-63  
Date: July 15, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-63: Application of Mariusz Luczaj for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .247 proposed), 9 (Side Yard: 20' required, 13.30 proposed) 10 (Total Side Yard: 50' required, 38.80' proposed) and 12 (Building Height: 13.30' permitted, 17.50 proposed) for an addition to an existing single-family residence. The premises are located at 27 Wildwood Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 4, Lot 39; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, July 15, 2015 and September 2, 2015 at which time the Board made the determination hereinafter set forth.

Mario Luczaj and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans dated March 5, 2013 with the latest revision date of May 29, 2015 signed and sealed by Robert Hoene, Registered Architect (3 pages).
2. Three letters in opposition to the granting of the side yard variance and one letter has three google maps attached.

Mr. Sullivan recused himself because his brother lives in this neighborhood.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Bosco 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. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Ms. Castelli was absent. Mr. Sullivan recused himself.

Mario Luczaj testified that they moved into the house 9 months ago; that this is a great street and neighborhood; that the house lacks storage space; that they would like to add a garage, increase the kitchen size and dining area; that he lives in the house with his wife, three kids and mother-in-law; that the existing kitchen is an 8'x 8' room; that the existing garage is only nine feet wide; that his wife drives a minivan and you cannot open the door in the garage; that he would also like to be able to store stuff in the garage; that he is requesting a 7' variance for the addition; that it is hard to find a house in Pearl River with this great location; that he made a decision to buy the house within two hours and did not really think much about the garage space at the time; that now that he is living in the space he realizes that he needs more storage; that he could reduce the width of the garage by three feet and only need a four foot variance; that this is the only logical place to expand the garage; and that he would like a continuance to the September 2<sup>nd</sup> meeting.

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Donald Brenner testified that these houses were built many years ago; that newer houses are being constructed with at least two car garages; that the size of the existing garage is not big enough for many of the vehicles that people drive today; that the proposal is for a garage that would not have any windows and it would still be a reasonable distance from the neighbor; that the granting of this variance would not set a precedent; that the Board knows that each project stands on its own; that there is a house across the street that has a two car garage; that there are six people in the house and the extra space is needed; that the applicant is willing to install planting along the property line; that there is no need for the floor area ratio variance, that this was a miscalculation; that the applicant needs a side yard variance and a height variance; and they would like to request a continuance to meet with the architect about the reduction in side yard.

Public Comment:

Kevin Meehan, 11 Wildwood Drive, testified that he is opposed to the side yard variance; that the proposal is for a 35% reduction in the required side yard; that no one else in the area has swayed from the 20' side yard requirement.

Dolan Cassidy, 19 Wildwood Drive, testified that he lives right next door; that he bought the house because of the R-15 zoning district; that the neighbors all honor the 20 foot side yard requirement and it has made the neighborhood more valuable; that he has live in his house for 21 years and would like to see the 20' side yard kept.

William Maloney, 35 Wildwood Drive, testified that he would not mind the expansion into the rear yard but the 20 foot side yard should be honored.

James Schlag, 589 Wildwood Drive, testified that he purchased his house in 1975; that he raised two kids in the house and at one time had five cars in the driveway; that the distance between the houses is part of what makes the block so desirable; that he came to Pearl River from Hartsdale that permits 50 foot wide lots and he loves his block; that one of his children purchased a house on the block and that is a testimony to the block.

Kathy Cassidy, 19 Wildwood Drive, testified that she appreciates the efforts that the applicant has made on the house and does not object to an expansion as long as it doesn't require a side yard variance.

Sherman Baker, 67 Wildwood Drive, testified that he purchased his house twenty years ago because he appreciated the neighborhood; that it is a single street in and out; that they know what they have , a quiet beautiful place to live and they don't need more garages facing the street; and that he is against this.

September 2, 2015

New Submission:

1. Revised Architectural plans with the latest revision date of 08/17/2015; showing a side yard of 17' and total side yard of 42.5'; which would also decrease the requested floor area ratio and increase the permitted height; however the table was not updated.
2. Two letters in opposition to the variances.

Donald Brenner, Attorney and Mario Luczaj appeared.

Mario Luczaj testified that he brought his family with him to the meeting tonight; that he did not buy this house to flip it; that he would like to live in the house and raise his kids; that the house lacks space in some areas; that he would like to turn it into his family dream house; that it needs to be expanded to become 100% functional; that he had his architect redo the plans to ask for a three foot side yard and not a full two car garage; that

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he does care about the neighbors and that is why he has reduced what he originally asked for.

Donald Brenner, Attorney, testified that the requested variance is nominal; that the Board has granted a similar variance at 34 Hawk Street; that the granting of the variances will not decrease property values; that his client originally asked for a 7' variance and has reduced his request to 3'; and that the floor area ratio and building height variance requests have been withdrawn.

Public Comment:

Kathy Sherry Cassidy, 19 Wildwood Drive, Pearl River, testified that she looked at the plans on the 31<sup>st</sup> and the 1<sup>st</sup> and she read into the record a letter regarding the bulk table and the side yard and total side yard requirements and questioned the floor area ratio; and that she is not opposed to an expansion but that the expansion should be within the %-15 setbacks; that she would like to see the neighborhood preserved and the expansion done without a variance.

James Schlag Jr., 59 Wildwood Drive, testified that he has been a resident since 1975; that they moved to Pearl River from Westchester, where they had a 50' x 100' lot; that they thought they had moved into a mansion on a very large lot because of the distance between the houses; that this distance should be preserved.

Dolan Cassidy, 19 Wildwood Drive, testified that he is not against the family expanding the house; that Mario is a builder and could figure out a way to expand and still keep the spaces between the houses the way they have been for the last 60 years.

The Board members made personal inspections of the premises the weeks before the meetings 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.

Ms. Castelli 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, as reduced to 17' side yard and 42.5' total side yard, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The floor area ratio and height variances were withdrawn by the applicant and no longer requested by applicant and consequently, **not** reviewed by the Board.
2. The requested side yard, total side yard variances, as reduced to 17' side yard and 42.5' total side yard, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The floor area ratio and height variances were withdrawn by the applicant and no longer requested by applicant, and, consequently, **not** reviewed by the Board.

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3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The Board noted that the applicant's existing house did not meet the 50' total side yard requirement and existed with a 45.5' total side yard.
4. The requested side yard and total side yard, as reduced to 17' side yard and 42.5' total side yard, are not substantial. The floor area ratio and height variances were withdrawn by the applicant and no longer requested by applicant, and, consequently, not reviewed by the Board.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the amended 17' side yard and 42.5' total side yard variances are APPROVED with the Specific Condition that the Bulk Table must be corrected to reflect the latest revisions of the plans that depict the removal of the Floor Area Ratio and Height variances, and the modified side yard and total side yard variances; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing Resolution to approve the application for the modified 17' side yard 42.5' total side yard variances, with the Specific Condition that the Bulk Table must be corrected to reflect the latest revisions of the plans that depict the removal of the Floor Area Ratio and Height variances, and the modified side yard and total side yard variances; 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; and Ms. Salomon, aye. Mr. Sullivan was absent but had recused himself at the prior hearing.

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: September 2, 2015

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE  
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TOWN OF ORANGETOWN

DECISION

**SIDE YARD VARIANCE APPROVED**

To: Edward and Carrie Drum  
1 Jay Place  
Pearl River, NY 10965

ZBA #15-68  
Date: September 2, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-68: Application of Edward and Carrie Drum for a variance from Zoning Code Chapter 43 of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 9 ( Side Yard: 20' required, 16' proposed) for an addition to an existing one-family residence. The premises are located at 1 Jay Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 2, Lot 33 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2015 at which time the Board made the determination hereinafter set forth.

Edward Drum appeared and testified.

The following documents were presented:

1. Architectural plans labeled Drum Residence dated September 11, 2014 with the latest revision date of May 27, 2015 signed and sealed by Robert Hoene, Registered Architect (2 pages).

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

Edward Drum testified that he would like to add a family room and rearrange the kitchen in his house; that he is following the existing line of the house into the rear yard; that the existing house does not meet the side yard requirements; that he purchased the house from his parents and have lived in the house for 46 years; that he presently lives in the house with his family of four; and that he does have an 8' x 10' shed in the rear yard.

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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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard variance is not substantial and continues the line of the existing house. Similar additions 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 side yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested side 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; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: September 2, 2015

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

**FRONT YARD AND BUILDING HEIGHT VARIANCE APPROVED**

To: James and Diane Aprile  
79 Walnut Street  
Blauvelt, New York 10913

ZBA #15-69  
Date: September 2, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-69: Application of James and Diane Aprile for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 8' proposed) and 12 (Building Height: 8' permitted, 12' proposed) for an entry deck addition to a single-family residence. The premises are located at 79 Walnut Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 31; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2015 at which time the Board made the determination hereinafter set forth.

James and Diane Aprile appeared and testified.

The following documents were presented:

1. Copy of site plan (1 page).
2. Hand drawn plan for the proposed entry deck with a roof. (2 pages)

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

Diane Aprile testified that they would like to add deck parallel to the existing front deck to widen the entrance and add a covered porch area to the house; that they are not going any further into the front yard; that they rented the house for ten years before purchasing it five years ago.

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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.

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

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

General Conditions:

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

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

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

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

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

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

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

DATED: September 2, 2015

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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FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN  
2015 SEP 24 PM 1 22  
TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND BUILDING HEIGHT  
VARIANCES APPROVED SECTION 5.21c & e UNDERSIZED LOT APPLIES**

To: Aiden and Evelyn Doorley  
49 Secor Boulevard  
Pearl River, NY 10965

ZBA #15-70  
Date: September 2, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-70: Application of Aiden and Evelyn Doorley for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .26 proposed), 8 (Front Yard: 30' required, 22.6' proposed) Section 5.21 (c) (Undersized lot applies), 9 (Side Yard: 15' required, 11.7' proposed), and 5.21 (e) : (Building Height: 20' permitted, 24' proposed) for an addition to an existing single-family residence. The premises are located at 49 Secor Boulevard, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 30; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2015 at which time the Board made the determination hereinafter set forth.

Evelyn Doorley and Douglas Siebenaler, Architect, appeared and testified.

The following documents were presented:

1. Survey dated May 15, 2015 signed and sealed by Robert E. Sorace, PLS. (1 page).
2. Architectural plans labeled "Proposed Addition to the Doorley Residence" not dated, not signed or sealed by Paul Douglas Siebenaler, Registered Architect (1 page).
3. Four letters in support of the application.
4. Six 8" x10" computer generated pictures of the existing house.

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

Douglas Siebenaler, Architect, testified that the plan is to add a full second story to the existing structure; that the existing house is a small cape cod style house and it is in need of repair; that they are shoring up the existing foundation; removing the existing Bilco doors from the back of the house; that they are removing some old floor joists and adding a new staircase; that they are also adding a front portico to the house and they are planning to save the beautiful tree in the back yard.

Evelyn Doorley testified that there are three people living in the house presently.

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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.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

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

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, front yard, 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.

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The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard and building height variances was presented and move by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: September 2, 2015

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE  
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TOWN OF ORANGETOWN

DECISION

**SIDE YARD, REAR YARD, BUILDING HEIGHT, SECTION 6.4 NUMBER OF LOADING BERTHS AND SECTION 3,11, LIO DISTRICT REFERS TO LO DISTRICT COLUMN 7 #2 OUTDOOR LOADING BERTHS VARIANCES APPROVED**

To: Steve Grogg P.E. (Celtic Sheet Metal)  
McLauren Engineering  
100 Snake Hill Road  
West Nyack, New York 10994

ZBA #15-71  
Date: September 2, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15- 71: Application of Celtic Sheet Metal Inc. for variances from the Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, LIO District, Group CC, Columns 9 (Side Yard: 100' required, 42.91' proposed), 11 (Rear Yard: 100' required, 50.4' proposed) and 12 (Building Height: 10.73' permitted, 30' proposed) and from Section 6.4 Item F:

(7 loading berths required, 6 loading berths provided) and from Section 3.11 LIO District refers to LO District, Column 7 Item #2 ( All loading berths shall be within enclosed buildings: 6 outdoor loading berths proposed); for a 55,000 square foot expansion to an existing commercial building. The premises are located at 1 Corporate Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 32; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2015 at which time the Board made the determination hereinafter set forth.

Michael Cunney, Owner, Donald Brenner, Attorney, and Steve Grogg, P.E., and Erin Wenzler, Real Estate Agent, appeared and testified.

The following documents were presented:

1. Overall Site Plan "Celtic Sheet Metal" dated 06/17/2015 signed and sealed by Steven L. Grogg., P.E. ( 2 pages).
2. Planning Board decision #15-27 dated May 27, 2015.
3. A memorandum dated May 27, 2015 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown,

Ms. Castelli, Acting Chairperson, 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, Ms. Castelli moved for a Board determination that since the Planning board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b)(3) and since the Planning Board conducted a SEQRA review and on May 27, 2015 rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e., a "Negative Declaration" or "Neg. Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulation § 617,6 (b)(3). The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Bosco, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

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Donald Brenner, Attorney, testified that the applicant has appeared before the Planning Board and received a preliminary approval and a neg dec on May 27, 2015; that the company just got a contract for larger equipment than they have previously fabricated; that the Olympus building has been empty for the last ten years; that Celtic Sheetmetal fabricates air handling equipment; that they need to expand the building because they need the extra height to accommodate the larger equipment; that they will be using part of the building for offices and the auditorium will be used for classes on how to use the equipment; that they will be doubling the size of the building; that there is 138' of property bordering New Jersey; that the rest of the property borders businesses in New York; that the property has been zoned LIO since 1952 and was changed to LI ; that this is a good tax ratable for Pearl River Schools; that they do have to come back for a performance standards review; and that all of the lighting outside the building is down lighting and that lighting will be continued to the addition.

Michael Cunney testified that he is a sheet metal contractor that fabricates ventilated systems; that last year they got a contract to fabricate products for Johnson Controls on the eastern seaboard; that they will have several trucks a day to the city and they need the 26' height; that he never said he would operate 2 shifts for six days a week; that they typically don't work on Saturdays; that these are steel products; that they do not galvanize on site; that the chemical work is done in NYC; that they will use a water based sealant; and that they have a filtration system and no exhaust or smoke goes outside.

Steven Grogg, P.E., testified that the road around the back of the building for fire access will remove some of the trees but there will remain 6-8 trees in rows; that there is a sewer easement and no it will not be touched; that the area was previously excavated and is ready for expansion; and that some of the residential property in New Jersey that borders this property is a tennis court.

Public Comment:

Mike Poliscastro, 4 Lone Cedar, Old Tappan New Jersey; testified that he is the residential neighbor directly behind 100' of woods in the rear and the landscaper and this property is at the corner of his; that he is concerned about odors, pollutants, noises lighting, hours of operation; that before it was 18,000 sq. ft. of warehouse and now it will be 107 thousand sq. ft.; that he heard at the Planning board meeting that they would operate six days a week from 6 A.M. to 10 P.M.; that he is concerned about the noises, odors dramatic chemicals, welding, grinding noises; that HVAC systems are metal manufacturing; that the noise will bounce between his home and the building; that this operation should be further away from residences; that the large trucks with their fumes in an alley way and lights at night will all be extremely offensive; that he hopes the Board will consider how detrimental this will be to his family.

Howard Plotkin, 81 Greenwoods Road, Old Tappan, New Jersey, testified that he purchased the house directly in the rear of this property; that he is concerned about health issues; that this will have adverse effects with chemicals, noise and lights; that the business will grow and everything gets larger and the impact on the environment gets worse; with more trucks and noise and traffic; and that he would ask the board to do a study on related health issues.

Michele Albergo, 81 Greenwoods Road, Old Tappan, New Jersey, testified that he finance addressed most of her concerns but she would like to add that already early in the morning it is very noisy; that it will get worse with a 30' high building in the backyard; that she is a cancer survivor and she knew Olympus was there but this is more than

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doubling the size; and it is a monster in their backyard and she is concerned about property values.

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.

Ms. Castelli 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, rear yard, building height, Section 6.4 Item F (number of loading berths and Section 3.11/ LIO District refers to LO District, Column 7 #2 (Outdoor loading berths) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition needed to be located in its proposed location in order to work with the existing interior of the building.
2. The applicant shall return to the Board for review of their Performance Standards, as per Orangetown Zoning Code Section 4.1.
3. The requested side yard, rear yard, building height, Section 6.4 Item F (number of loading berths and Section 3.11/ LIO District refers to LO District, Column 7 #2 (Outdoor loading berths) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed addition needed to be located in its proposed location in order to work with the existing interior of the building.
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 side yard, rear yard, building height, Section 6.4 Item F (number of loading berths and Section 3.11/ LIO District refers to LO District, Column 7 #2 (Outdoor loading berths) variances, although substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed addition needed to be located in its proposed location in order to work with the existing interior of the building.
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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard, rear yard, building height, Section 6.4 Item F (number of loading berths and Section 3.11/ LIO District refers to LO District, Column 7 #2 (Outdoor loading berths) variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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The foregoing resolution to approve the application for the requested side yard, rear yard, building height, Section 6.4 Item F (number of loading berths and Section 3.11/ LIO District refers to LO District, Column 7 #2 (Outdoor loading berths) variances was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, abstained; and Ms. Salomon, nay. Mr. Sullivan was absent.

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

DATED: September 2, 2015

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-N.A.

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

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DECISION

**SECTION 5.153 (ACCESSORY STRUCTURE IN FRONT YARD) VARIANCE  
APPROVED**

To: Thomas and Marie Farley  
121 Lester Drive  
Tappan, NY 10983

ZBA #15-72  
Date: September 2, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15- 72: Application of Thomas Farley for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.153 (Accessory Structure shall not be located in the front yard: above ground pool proposed location front yard); applicant has two front yards. The premises are located at 121 Lester Drive, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 1, Lot 50; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 2, 2015 at which time the Board made the determination hereinafter set forth.

Thomas, Marie and Jamie Farley appeared and testified.

The following documents were presented:

1. Copy of site plan with proposed pool drawn on it. (1 page)
2. A petition in support of the application with nine signatures of neighbors.

MS Castelli, Acting Chairperson, 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, 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 Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Quinn, aye; and Mr. Feroldi, aye. Mr. Sullivan was absent.

Jamie Farley testified that they house is built on a corner lot and has two front yards; that the side facing Knutson Knolls is the best place for a pool and she has two children, aged 7 and 4 ½ that are anxious to get a pool; that they are here because they have two front yards and there is nowhere else to construct the above-ground pool; that they purchased the house as an owner occupied local law #7; and the fence existed when they purchased the house; and they plan to have a pool alarm.

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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. Castelli 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 §5.153 Accessory structure in the front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has two front yards and a relatively small rear yard.
2. The requested §5.153 Accessory structure in the front yard variance 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 § 5.153 Accessory structure in the front 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.
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 §5.153 Accessory structure in the front yard variance are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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


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The foregoing resolution to approve the application for the requested § 5.153 Accessory structure in the front yard variance was presented and moved by Mr. Bosco, seconded by Ms. Quinn and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: September 2, 2015

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  
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FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

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