

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: School of Rock Conditional Use Permit, 135 Erie Street, Blauvelt, NY 74.14 / 4 / 36; CS zone; Dominik & White Resubdivision Plan, 110 Old Pascack Road & 21 Buchanan Street, Pearl River, NY 68.14 / 2 / 21 & 23; R-15 zone; St. Peters and St. Paul's Church Site Plan, 422 Western Highway, Tappan, NY, 74.18 / 3 / 27; R-15 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 11:00 P.M.

Dated: September 11, 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 SEP 27 PM 12 58
TOWN CLERKS OFFICE

DECISION
**NON-RESIDENTIAL SIGN APPROVED; SIGN SETBACK VARIANCE
APPROVED**

To: Bigelow Green (Palisades Presbyterian)
240 Tweed Boulevard
Nyack, New York 10960

ZBA # 13-60
Date: September 11, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-60: Application of Palisades Presbyterian Church for a variance from Chapter 43 (Zoning) Town of Orangetown, R-22 District, refers to R-80 District, Section 3.11, Column 5 #12 (Non-residential establishment or institution may be permitted 1 sign not over 20 sq. ft. with permission from the Zoning Board of Appeals and it should be located 25' from any lot line; 2' proposed from property line; 20 sq. ft. sign proposed) for a sign at an existing church. The Church is located at 117 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 2, Lot 9; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 11, 2013 at which time the Board made the determination hereinafter set forth.

Bigelow Green appeared and testified.

The following documents were presented:

1. Survey dated July 12, 2-13 signed and sealed by Jay A. Greenwell, Land Surveyor.
2. Part Architectural Site plan, Church Sign Plan, Elevation & Details dated August 27, 2013 signed and sealed by William E Pfaff, 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) (7); 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; Mr. Bosco, aye; and Mr. Sullivan, aye.

William Pfaff, Architect, testified that the church is celebrating it 150th anniversary, that the congregation was looking for ways to recognize this anniversary; that the proposed new sign, lawn area, low lights and landscaping are part of the recognition; that these items would be helpful for any functions held in the evening; that the proposed sign is in keeping with the historic area and the church; that it is a one sided sign and it is fifteen square feet and sits two feet from the property line but appears to be further back because the property line is about eight feet in from the street line; that they have met with the Orangetown Highway Department and they are fine with the placement and size of the sign because it does not interfere with sight distances and the distance from the road is sufficient; and that the proposed sign would also make a statement that the church is thriving and active.

TOWN CLERKS OFFICE
2013 SEP 27 PM 12 58
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 sign and sign location variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The church is set back from the road and has existed in this location for 150 years; the applicant has requested a fifteen square foot one-sided size set back two feet from their property line and their property is an additional eight feet from the street. Neither the sign nor its placement will interfere with traffic.
2. The requested sign and sign location variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The church is set back from the road and has existed in this location for 150 years; the applicant has requested a fifteen square foot one-sided size set back two feet from their property line and their property is an additional eight feet from the street. Neither the sign nor its placement will interfere with traffic.
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 church is set back from the road and has existed in this location for 150 years; the applicant has requested a fifteen square foot one-sided size set back two feet from their property line and their property is an additional eight feet from the street. Neither the sign nor its placement will interfere with traffic.
4. The requested sign and sign location variances although somewhat substantial, afford benefits to the applicant that is not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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 SEP 27 PM 12 58

TOWN OF ORANGETOWN

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

General Conditions:

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested sign and sign location variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 11, 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 -R.O.

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

TOWN OF ORANGETOWN
2013 SEP 27 PM 12 58
TOWN CLERKS OFFICE

DECISION

FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED

To: Keith and Donna Flynn
13 Villa Drive
Nanuet, New York 10954

ZBA # 13-61
Date: September 11, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-61: Application of Keith and Donna Flynn for variances from Chapter 43 (Zoning) Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .246 existing, .251 proposed and 8 (Front Yard: 30' required, 27' 8" existing, 19' 4" proposed) for the addition of a front portico at an existing single-family residence. The premises are located at 13 Villa Drive, Nanuet, New York and are identified on the Orangetown Tax Map as Section 64.18, Block 1, Lot 66; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 11, 2013 at which time the Board made the determination hereinafter set forth.

Keith and Donna Flynn appeared and testified.

The following documents were presented:

1. Site plan and architectural plans dated October 22, 2012 signed and sealed by David Ramirez, R.A. (11 pages).

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) &/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; Mr. Bosco, aye; and Mr. Sullivan, aye.

Donna Flynn testified that they would like to add a portico to the front of the house; that presently you walk directly into the living /dining room area; that the proposed addition would be 32 sq. ft. on the interior and 40 sq. ft. from the exterior; that it would afford them space for a foyer and closet; that they have lived in the house for 23 years; and quite a few of their neighbors have done similar additions.

TOWN CLERKS OFFICE
2013 SEP 27 PM 12 58
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The additional front portico is practical and will enhance the house. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses in the area have similar front yard setbacks and the slight increase in floor area ratio will have little impact on 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. The additional front portico is practical and will enhance the house. Similar additions have been constructed in the neighborhood.
4. The requested floor area ratio and front yard variances are not substantial
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE
2013 SEP 27 PM 12:58
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and front 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 SEP 27 PM 12 58
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio and front yard variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 11, 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
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BUILDING INSPECTOR -B.vw.

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

TOWN OF ORANGETOWN
2013 SEP 27 PM 12 58
TOWN CLERKS OFFICE

DECISION

REAR YARD AND §§5.227 & 5.153 VARIANCES APPROVED

To: Robert and Erin Williams
71 Margaret Keahon Drive
Pearl River, New York 10965

ZBA # 13-62
Date: September 11, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-62: Application of Robert and Erin Williams for variances from Chapter 43 (Zoning) Town of Orangetown, R-15 District, Group M, Column 11 (Rear Yard: 35' required, 14.4' proposed) and from Section 5.227 (Accessory Structure side or rear yard: 5' required, 2.6' existing) and from Section 5.153 (Accessory structure distance from principal building: 15' required, 5' proposed) for the construction of a rear deck and to keep a shed in its present location at an existing single-family residence. The premises are located at 71 Margaret Keahon Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 2, Lot 32; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 11, 2013 at which time the Board made the determination hereinafter set forth.

Robert and Erin Williams appeared and testified.

The following documents were presented:

1. Survey dated December 15, 2009 with the deck drawn on it signed and sealed by Robert E. Sorace.
2. Deck plan dated 05/30/2013 signed and sealed by Michael R. Zrelak Jr., Architect.
3. Two letters of support for the application from abutting property owners.
4. A petition in support of the application signed by eleven neighbors.

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) &/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; Mr. Bosco, aye; and Mr. Sullivan, aye.

Erin Williams testified that they would like to build a deck in the rear yard; that the backyard does not have an even ground; that there are existing stone stairs that lead down hilly portion of the yard and they would like to keep them and build the deck out into the rear yard rather than wide behind the house; that the shed was in its present location when they purchased the house three years ago, and they would like to keep it there because it is one of the few flat areas of the yard; that eventually they would replace it with a nicer shed; and that they have two children aged two and four.

TOWN CLERKS OFFICE
2013 SEP 27 PM 12 58
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 rear yard and accessory structure yard and distance (§§5.227 & 5.153) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The rear property has a severe slope on one side and the driveway on the other side; the deck is being constructed around existing stairs that lead into the rear side yard and the shed existed in its present location before the Williams' purchased the property.
2. The requested rear yard and accessory structure yard and distance (§§5.227 & 5.153) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The rear property has a severe slope on one side and the driveway on the other side; the deck is being constructed around existing stairs that lead into the rear side yard and the shed existed in its present location before the Williams' purchased the property.
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 rear yard and accessory structure yard and distance (§§5.227 & 5.153) 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 rear property has a severe slope on one side and the driveway on the other side; the deck is being constructed around existing stairs that lead into the rear side yard and the shed existed in its present location before the Williams' purchased the property.
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.

2013 SEP 27 PM 12:58

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested rear yard and accessory structure yard and distance (§§5.227 & 5.153) variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard and accessory structure yard and distance (§§5.227 & 5.153) variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 11, 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 -B.vw.

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

TOWN OF ORANGETOWN
2013 SEP 27 PM 12 58
TOWN CLERKS OFFICE

DECISION
SIDE YARD VARIANCE APPROVED

To: William and Margaret Confrey
91 Turner Road
Pearl River, New York 10965

ZBA # 13-63
Date: September 11, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-63: Application of William and Margaret Confrey for a variance from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 14' proposed) for an addition to an existing single-family residence, The premises are located at 91 Turner Road, Pearl River, New York and identified on the Orangetown Tax Map as Section 72.08, Block 3, Lot 17; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 11, 2013 at which time the Board made the determination hereinafter set forth.

William and Margaret Confrey appeared and testified.

The following documents were presented:

1. Architectural plans with site plan dated 04/04/2013 signed and sealed by Robert Murphy, Architect.
2. A revised bulk table dated 09/06/2013 signed and sealed by Robert Murphy, Architect.
3. Eight computer generated pictures of the Confrey property submitted by the Comfreys'.
4. A letter from Mary Schaefer, 104 Gilbert Avenue, an abutting property owner expressing concerns regarding drainage.

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

Margaret Confrey testified that they have lived in the house for 17 years; that they do not want to move; that they have three grandchildren and two more on the way; that they are proposing to extend the exiting deck by five feet and enclose the area to create a family room for their expanding family; that they are sensitive to run-off issues; that they have planted six large pine trees to help soak up some of the water; that the property is located at the bottom of the hill; that Mr. Bonder, our neighbor closest to the proposed addition has seen the plans and is supportive of the application; that this is her first time in front of the Board and she did not know to ask him to attend the meeting or supply a letter of support; that she thinks the Schaefer property is about 50 feet from the property line; that they did remove about thirty trees years ago to create a yard and they planted about 30 arborvitae to make up for the removal of the trees; and that they do not plan to direct the gutters toward the Schaefer property; that they will work with the contractor to direct the gutter drainage to the front of the house.

William Confrey testified that the house sits caddie corner on the lot.

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

Public Comment:

Mary Schaefer, 104 Gilbert Avenue, abutting property owner, stated that her concerns would be directed toward drainage; that she cannot afford to have any additional water coming into the area between her house and the Confrey house; that there is an underground cave between the properties and this area becomes like an eddy when it rains; and she does not want it to get worse because she has concerns that it may get larger and come close to her foundation.

Carol Schaefer testified that she has lived in the house for twenty three years and the pool of water has gotten larger since the neighbors added the deck and patio; that she thinks there is about thirty feet to the property line and that she is concerned that if the pool of water gets large it will effect the foundation of the house.

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is a corner property with two front yards and the original house was built set back on the lot at an odd angle. The proposed addition is not large and the requested side yard variance is necessary in order to make the addition work with the existing house.
2. The applicant has agreed to direct the gutter and downspouts run-off from the new addition away from the Schaefer property (104 Gilbert Avenue) to the greatest extent possible.
3. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is a corner property with two front yards and the original house was built set back on the lot at an odd angle. The proposed addition is not large and the requested side yard variance is necessary in order to make the addition work with the existing house.
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 variance, although somewhat substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.

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6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard variance is APPROVED with the SPECIFIC CONDITION that the applicant's direct the gutter and downspouts run-off from the new addition away from the (104 Gilbert Avenue) Schaefer property to the greatest extent possible; 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 with the specific condition that the gutter and downspouts run-off from the new addition be directed away from the Schaefer property (104 Gilbert Avenue) to the rear to the greatest extent possible; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 11, 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 -M.M.

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

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

DECISION
SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES
APPROVED

To: Waheed Gill
161 Main Street
Pearl River, New York 10965

ZBA # 13-64

Date: September 11, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-64: Application of Waheed Gill for variances from Town of Orangetown, Chapter 43 (Zoning), RG District, Group Q, Section 3.12, Columns 9 (Side Yard: 10' required, 8.27' proposed), 10 (Total Side Yard: 30' required, 18.27' proposed) and 12 (Building Height: 11' permitted, 27.75' proposed) for an addition to an existing single family residence. The premises are located at 161 Main Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 5, Lot 69; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 11, 2013 at which time the Board made the determination hereinafter set forth.

Waheed and Serafin Gill appeared and testified.

The following documents were presented:

1. Architectural plans dated 10/25/2011 with the latest revision date of 01/31/2012 signed and sealed by Robert Hoene, Architect.
2. A letter dated August 12, 2013 from the County of Rockland Department of Planning signed by Thomas B, Vanderbeek, P.E., Commissioner of Planning.
3. A letter dated September 3, 2013 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated August 26, 2013 from the County of Rockland Drainage Agency signed by Vincent Altieri.

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

Waheed Gill testified that he and his wife have four children and the house has three bedrooms; that the girls are getting bigger and need their own bedrooms; that they would like to extend the house in the rear to add additional bedrooms with closets; that the roof would be the same height as the existing roof; that the house sits caddy corner on the lot and that the lot is oddly shaped.

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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, total 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 odd shaped property is sloped in the rear and this is the best possible location for the addition because of the grading of the property. Similar additions have been constructed in the area.
2. The requested side yard, total 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 odd shaped property is sloped in the rear and this is the best possible location for the addition because of the grading of the property. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard, total 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. . The odd shaped property is sloped in the rear and this is the best possible location for the addition because of the grading of the property. 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 arca 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, total 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 side yard, total side yard and building height variances was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 11, 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 -M.M.

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

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED WITH SPECIFIC CONDITION

To: David Tolley
290 Sickletown Road
Orangeburg, New York 10962

ZBA # 13-65
Date: September 11, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-65: Application of David Tolley for a variance from Chapter 43 (Zoning), R-40 District, Section 5.226 (Front Yard Fence Height: 4 ½' permitted, 6' existing & proposed) for an existing fence at an existing single-family residence. The premises are located at 290 Sickletown Road, Orangeburg, New York and identified on the Orangetown Tax Map as Section 64.20, Block 1, Lot 29; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 11, 2013 at which time the Board made the determination hereinafter set forth.

Paul Valentine Jr., Attorney, appeared and testified.

The following documents were presented:

1. Survey dated January 29, 2008 by Joseph Haller, P.L.S..
2. A cover letter from Paul W. Valentine, Jr. Esq., Attorney for the applicant.
3. Two color pictures of the site with the fence and a similar fence on a neighboring property.
4. A letter dated September 5, 2013 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. Two letters from the County of Rockland Department of Highways dated July 9, 2013 signed by Sonny Lin, P.E. and September 6, 2013 signed by Joseph Arena, Senior Engineering Technician.

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; Mr. Bosco, aye; and Mr. Sullivan, ayé.

Paul Valentine Jr., Attorney, testified that the applicant purchased his property in 2007 with the existing fence; that in January 2013 the applicant was notified that the existing iron fence that borders the outside of his property along Sickletown Road and Sherwood Lane is in violation of the Orangetown Code and requires a variance; that the applicant applied for a building permit to maintain the fence and was referred to the Zoning Board; that he respectfully requests that the Board consider the following factors: the iron fence is transparent and has a very minimal impact on sight lines for the drivers turning onto Sherwood Lane from either direction of Sickletown Road; that the fence provides privacy for the applicant from the traffic along Sickletown Road; that the fence does not produce an undesirable change in the character of the neighborhood and does not impair the aesthetic value of the property; that the fence cannot be altered and/or removed without significant expense to the applicant; and that the applicant will comply with the requirements from the Rockland County Highway Department dated September 6, 2013.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard fence height 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 purchased the house with the existing fence in 2007; the fence that is along two of the streets provides privacy and safety for the applicant without encroaching on any sight lines for the street.
2. The applicant has agreed to comply with the letter from the County Highway Department dated September 6, 2013.
3. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has two front yards and purchased the house with the existing fence in 2007; the fence that is along two of the streets provides privacy and safety for the applicant without encroaching on any sight lines for the street.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The applicant has two front yards and purchased the house with the existing fence in 2007; the fence that is along two of the streets provides privacy and safety for the applicant without encroaching on any sight lines for the street.
5. The requested front yard fence height variance is not substantial because it is not a solid fence.
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 front yard fence height variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

DATED: September 11, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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