

MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 17, 2014

MEMBERS PRESENT: THOMAS QUINN
LEONARD FEROLDI, ALTERNATE
MICHAEL BOSCO

ABSENT: JOAN SALOMON
PATRICIA CASTELLI
DAN SULLIVAN

ALSO PRESENT: Robert Magrino, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Elizabeth Decort, Clerk Typist

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

42 HEY HOE WOODS 78.17 / 2 / 2; R-40 zone	GRAVEL DRIVEWAY VARIANCE APPROVED	ZBA#14-65
GAGLIONE 74.10 / 2 / 3; R-22 zone	FRONT YARD VARIANCE APPROVED	ZBA#14-66
JACOB 77.10 / 3 / 48; R-15 zone	REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#14-67
VESEY 69.18 / 3 / 11; R-15 zone	FLOOR AREA RATIO & REAR YARD APPROVED & SECTION 3.11, R-80 DISTRICT, COLUMN 2 #1 VARIANCES	ZBA#14-68 CONTINUED
TRAAS 68.15 / 2 / 1; R-15 zone	SIDE YARD VARIANCE APPROVED (UNDERSIZED LOT APPLIES)	ZBA#14-69

TOWN OF CRANGETOWN
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TOWN CLERKS OFFICE

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman, Daniel Sullivan, 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: **Jay and Joe Construction LLC Subdivision, (2-lots) 80 South Middletown Road, Pearl River, N.Y. 69.17 / 1 / 76; RG zone; Skae Training Resubdivision Plan, 337-330 Blaisdell Road, Orangeburg, NY, 76.08 / 1/ 3 & 4; LIO zone; One Ramland Road Interior Commercial Subdivision Plan, 1 Ramland Road, Orangetown, New York 73.20 / 1 / 24; LIO zone; Quinn Sheetmetal Inc. Conditional Use Permit, 23 Rockland Park Road, Tappan, New York, 77.16 / 1 / 32; LIO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.**

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

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

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

Dated: September 17, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Elizabeth Decort
Clerk-Typist

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

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

DECISION

**ORANGETOWN ZONING CODE SECTION 6.332 GRAVEL DRIVEWAY
VARIANCE APPROVED**

To: Efrain Rodriquez (42 Hey Hoe Woods)
668 Crescent Avenue 2nd floor
Bronx, New York 10458

ZBA # 14-65
Date: September 17, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-65: Application of 42 Hey Hoe Woods Road for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 6.332, R-40 District, (Driveways shall be paved, gravel is proposed) for a driveway at a new single family residence. The premises are located at 42 Hey Hoe Woods Road, Palisades, New York and is identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 2; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2014 at which time the Board made the determination hereinafter set forth.

Efrain Rodriquez, Construction Manager, Jose Perez, Property Owner, Jay Greenwell, Land Surveyor, and Robert Hoene, Architect appeared and testified.

The following documents were presented:

1. Site plan labeled "Plot Plan for Building Permit Mastermind LTD." Dated June 11, 2014 signed and sealed by Jay A. Greenwell, PLS, LLC.
2. A letter dated September 5, 2014 from Eugene Kohn, 27 Heyhoe Woods, an abutting property owner.

Mr. Quinn made a motion to open the Public Hearing which motion was seconded by Mr. Bosco and carried unanimously.

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

Robert Hoene testified that the sensor and garage lights mentioned in abutting property owner Eugene Kohn's letter to the board were addressed during the September 9th, 2014 Historic Board Areas of Review meeting and will remain consistent with the character of the neighborhood as part of the approved decision. Jay Greenwell testified that the owner is seeking permission to maintain the existing gravel driveway up to the demarcation line and install paver block in the new portion of the driveway. Mr. Greenwell also stated the removed portion, as noted on the "Plot Plan for Building Permit-Mastermind LTD" dated June 11, 2014, will include landscaping to complement the property and location of the new house and garage.

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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. Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Feroldi 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 gravel driveway variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Gravel driveways are common in the area.
2. The requested gravel driveway variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The majority of driveways in the area are gravel.
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 gravel driveway 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.
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 variance.

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested gravel driveway 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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42 Hey Hoe Woods Road
ZBA#14-65
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The foregoing resolution to approve the application for the requested gravel driveway variance was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon and Ms. Castelli were 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 17, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Elizabeth Decort
Elizabeth Decort
Clerk Typist

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
2014 OCT 3 PM 1 19
TOWN OF ORANGETOWN

DECISION
FRONT YARD VARIANCE APPROVED

To: Joseph and Bernadette Gaglione
18 Ethan Allen Court
Orangeburg, New York 10962

ZBA # 14-66
Date: September 17, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-66: Application of Joseph and Bernadette Gaglione for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-22 District, Group I, Column 8 (Front Yard: 40' required, 24' proposed) for an addition of a deck to a single-family residence. (House was built Average Density). The premises are located at 18 Ethan Allen Court, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.10, Block 2, Lot 3; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2014 at which time the Board made the determination hereinafter set forth.

Joseph Gaglione, property owner appeared and testified.

The following documents were presented:

1. Site plan.
2. Deck plans.

Mr. Feroldi, made a motion to open the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

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

Joseph Gaglione, property owner, testified that he and his wife have decided to install a standard frame deck with 18' x 18' x 18' dimensions. Mr. Gaglione specified that the property is a corner lot and therefore has two front yards. Due to the formation of his property, the dimensions of the proposed deck will extend approximately 2.6' to 3' over the required setback. Mr. Gaglione stated that he previously obtained a building permit for the deck with different dimensions that fell within the required set back lines but would have caused the railing to end in the middle of an existing window on the side of the house. Mr. Gaglione indicated that a new deck plan was created to provide a more practical deck alignment in accordance with the existing location of windows on the house.

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Feroldi made a motion to close the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the area.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front 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. All of the houses in the neighborhood were constructed under average density and similar front yards exist 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.

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

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

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
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Gaglione
ZBA#14-66
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The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ; and Mr. Sullivan, aye. Ms. Salomon and Ms. Castelli were 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 17, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Elizabeth Decort
Clerk-Typist

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

REAR YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Babu Jacob
39 Andre Hill Drive
Tappan, New York 10983

ZBA # 14-67
Date: September 17, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-67: Application of Babu and Kunjamma Jacob for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 11 (Rear Yard: 35' required, 26.7' proposed) and 12 (Building Height: 26'7" permitted, 30' proposed) for an addition to an existing single-family residence. The premises are located at 39 Andre Hill Drive, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 48; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2014 at which time the Board made the determination hereinafter set forth.

Babu Jacob, property owner appeared and testified.

The following documents were presented:

1. Site plan.
2. Addition plans not signed or sealed or dated.
3. Zoning Board of Appeals Decision #06-63 dated 06/07/2006.

Mr. Bosco made a motion to open the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Mr. Feroldi, aye. Mr. Sullivan, Ms. Castelli and Ms. Salomon were absent.

Babu Jacob, property owner, testified that in 2006 he appeared before the Zoning Board for the addition of a two-car garage on his property. Since that time his family has grown significantly, requiring him to convert the garage into a family room as he now has 3 young grandchildren and they need somewhere to play. Mr. Jacob explained that the boiler room is currently situated in the middle of the house and as a result the family has to deal with the noise and smell that comes from the boiler. Mr. Jacob stated the 15' x 18 ½' addition he is proposing will allow him to move the boiler room to the rear of the house, provide a washroom as well as much needed storage space. Mr. Jacob also testified the second story of the addition would create a master bedroom with a full bathroom and walk in closet. Mr. Jacob clarified that he has lived in this house for thirteen years and that this is the only house he owns. Additionally, Mr. Jacob clarified that the use of the house will not change and this addition will serve the purpose of accommodating his growing family.

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Quinn 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 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 rear 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 rear yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

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.

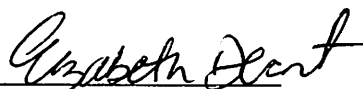
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown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

The foregoing resolution to approve the application for the requested rear yard and building height variances were presented and moved by Mr. Quinn, seconded by Mr. Feroldi and carried as follows: Mr. Bosco, aye. Mr. Sullivan, Ms. Salomon and Ms. Castelli were 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 17, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Elizabeth Decort
Clerk-Typist

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

FLOOR AREA RATIO AND REAR YARD VARIANCES APPROVED; SINGLE FAMILY CONVERSION ASPECT OF APPLICATION CONTINUED AT REQUEST OF APPLICANT

To: Thomas Vesey
25 Garrecht Lane
Pearl River, New York 10965

ZBA # 14-68
Date: September 17, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-68: Application of Thomas Vesey for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, R-15 District, Group M, Column 2 refers to R-80 District, Column 2, #1 (Single family detached residence permitted, two-family residence proposed) and from Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .257 proposed), and 11(Rear Yard: 35' required, 22.4' proposed) for a new residence with an additional dwelling unit. The premises are located at 25 Garrecht Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 11; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2014 at which time the Board made the determination hereinafter set forth.

Thomas Vesey, property owner, and Jonathon Hodosh, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans and site plan dated August 5, 2014 signed and sealed by Jonathan Hodosh, Architect. (8 pages)
2. A letter dated September 14, 2014 from Dawn Dennis, 41 Elm Street, Patricia Altomare, 32 West Nauraushaun Avenue, Thomas Vesey, 31 Garrecht Lane, Steven Bruni, 24 Sunrise Lane, Charlie & Marylou Scott, 30 Sunrise Lane, Cornelius O'Keefe, 22 West Nauraushaun Avenue, Patrick Desmond, 520 Orangeburg Road, Michael Fahy, 33 West Nauraushaun Avenue, Steven DeThomas, 32 Elm Street, John Dick, 37 Garrecht Lane, Catherine Small, 6 Elm Street, Kristoffer McArdle, 24 Elm Street, Dennis Gilligan 42 Garrecht Lane, Bernard Gallagher, 45 West Nauraushaun Avenue, Louise Jeane Mocerino, 530 Orangeburg Road, Ellinor and Horst Tiepolt, 41 West Nauraushaun Avenue, Michael Dinet, 44 West Nauraushaun Avenue, Bob Scarf, 51 West Nauraushaun Avenue, Maurice O'Sullivan, 27 Garrecht Lane, Bridgid Roberts, 40 West Nauraushaun Avenue, James MacRobbie, 552 Orangeburg Road, Wendy MacRobbie, 552 Orangeburg Rd, (Pearl River).
3. A letter dated September 16, 2014 from Jonathan Hodosh, NCARB, President of George Hodosh Associates – Architects, P.C.
4. Copy of Property Survey titled "Survey of Property #25 Garrecht Lane", Dated November 16, 2009 signed by Stephen Hoppe, L.S.
5. Two photos of the existing house as it is viewed from the street and back yard.

TOWN CLERKS OFFICE

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Mr. Bosco made a motion to open the Public Hearing which motion was seconded by Mr. Feroldi and carried unanimously.

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Mr. Feroldi, aye. Mr. Sullivan, Ms. Castelli and Ms. Salomon were absent.

Jonathan Hodosh, Architect, testified that the owner, Mr. Vesey, purchased the property to reside with his wife, daughter and son-in-law. Mr. Hodosh stated that the property is a conforming corner lot, that the house is on Garrecht Lane and the garage is on Naurausaun Avenue. Mr. Hodosh stated that the project proposed construction of a new house with an additional dwelling unit subordinate to the single family dwelling and the application was not, in his opinion, a use variance, rather, a single-family conversion pursuant to Orangetown Zoning Code §4.5. Mr. Hodosh testified that the house behind 25 Garrecht Lane is new and, in his opinion, the proposal of this new house would not change the character of the neighborhood. Mr. Vesey, property owner, testified that his wife recently suffered a stroke and as a result they had to move in with his daughter so that the family could help care for his wife. Mr. Vesey stated that the house they were sharing with their daughter was too small and this is why he purchased the property at 25 Garrecht Lane. Mr. Vesey testified that he owns the property located at 31 Garrecht Lane and that he has shared the architectural plans with the surrounding neighbors who offered support to the proposed project by signing drafted letters (presented and read into the record at hearing). Mr. Hodosh stated that aside from the bulk variances, the applicant requests an exception to Section 4.5 of the Zoning Code. Mr. Hodosh acknowledged that the current owner has not resided at the property for 15 years and the proposed application would create a new structure. Mr. Hodosh acknowledged the variances would not change the footprint of the plans and said the owner is willing to file a restrictive covenant and remove the second kitchen should the board deem necessary to achieve approval. Mr. Hodosh and the owner, Mr. Vesey REQUESTED A CONTINUATION of the single-family conversion aspect (Zoning Code §4.5) of the application. This matter will be reviewed at the OCTOBER 15, 2014 Zoning Board of Appeals hearing.

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. Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

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

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 rear yard variances are APPROVED WITH THE CONDITION THAT THE FOOTPRINT OF THE PRESENTED PLANS DOES NOT CHANGE; **and that the variances relating to the Applicant's aspect of the Application seeking approval of a single-family conversion pursuant to Zoning Code §4.5 are CONTINUED AT REQUEST OF THE APPLICANT TO BE HEARD AT THE OCTOBER 15TH, 2014 ZONING BOARD OF APPEALS MEETING**; it is 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.

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(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.

The foregoing resolution to approve the application for the requested floor area ratio and rear yard variances, with the condition that the footprint of the presented plans does not change was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye. Mr. Sullivan, Ms. Salomon and Ms. Castelli were 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 17, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Elizabeth Decort
Clerk-Typist

DISTRIBUTION:

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

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

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DECISION

UNDERSIZE LOT: SIDE YARD VARIANCE APPROVED

To: William Traas
151 Highland Avenue
Pearl River, New York 10965

ZBA # 14-69
Date: September 17, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-69: Application of William Traas for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 15' required, 12' proposed) (Section 5.21(c) undersized lot applies) for a front porch at an existing single-family residence. The premises are located at 151 Highland Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 2, Lot 1; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 17, 2014 at which time the Board made the determination hereinafter set forth.

William Traas, property owner appeared and testified.

The following documents were presented:

1. Site plan and architectural plans for the porch dated June 24, 2014 signed and sealed by Robert Paul DePippa, Architect.

Mr. Feroldi, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco and carried unanimously.

On advice of Robert Magrino, 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 Mr. Quinn and carried as follows: Mr. Feroldi, aye. Mr. Sullivan, Ms. Salomon and Ms. Castelli were absent.

William Traas, property owner, testified that he is replacing an existing porch and would like to make the porch uniform to fit the width of the front of the house. He stated that in order to do this the porch would require approximately a 2 ½' extension. Mr. Traas explained he is not extending the roof or porch past the property line. He also confirmed that he owns the adjacent property in Chestnut Ridge which borders the direction of the extension.

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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. Feroldi made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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 addition to the porch will be attractive because it will run the full width of the house and the applicant owns the adjacent lot most affected by the side yard variance.
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. The addition to the porch will be attractive because it will run the full width of the house and the applicant owns the adjacent lot most affected by the side yard variance.
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.
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.

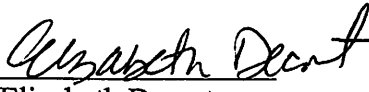
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The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Mr. Feroldi, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye. Mr. Sullivan, Ms. Salomon and Ms. Castelli were absent.

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 17, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

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