

MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 3, 2014

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

ABSENT: NONE

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

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

<u>PUBLISHED ITEMS</u>		
<u>APPLICANTS</u>		<u>DECISIONS</u>
<u>NEW ITEMS:</u>		
BRIDGES 80.06 / 1 / 11; R-40 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#14-59
MC NAUGHTON 69.10 / 2 / 78; R-15 zone	FRONT YARD, SIDE YARD, TOTAL SIDE YARD & ACCESSORY STRUCTURE VARIANCES APPROVED	ZBA#14-60
LOCOCO 77.12 / 1 / 31; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#14-61
SILVER 73.16 / 2 / 67; R-22 zone	FLOOR AREA RATIO, FRONT YARD & SIDE YARD VARIANCES APPROVED	ZBA#14-62
ROONEY 73.05/ 1 / 4; R-15 zone	SIDE YARD VARIANCE APPROVED (UNDERSIZED LOT APPLIES)	ZBA#14-63
ORANGETOWN SHOPPING CENTER 74.10 / 1 / 67; CS zone	CONTINUED	ZBA#14-64

TOWN OF ORANGETOWN
2014 SEP 16 PM 12 07
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 9:00 P.M.

Dated: September 3, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By


Deborah Arbolino
Administrative Aide

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

TOWN CLERKS OFFICE
2014 SEP 16 PM 12 07
TOWN OF ORANGETOWN

DECISION

**EXTENSION OF TIME TO IMPLEMENT TOTAL SIDE YARD VARIANCE
APPROVED**

To: Kurt and Kristan Bridges
3 Prior Court
Palisades, New York 10964

ZBA # 14-59
Date: September 3, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-59: Application of Kurt and Kristan Bridges for an extension of time to implement a variance that was granted in ZBA#07-63; for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-40 District, Group E, Column 10 (Total Side Yard: 80' required, 66.3' proposed) for an addition to an existing single family residence. The plans have been modified and the proposed addition is smaller than the previously approved plan. The premises are located at 3 Prior Court, Palisades, New York and are identified on the Orangetown Tax Map as Section 80.06, Block 1, Lot 11; 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 3, 2013 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, and Kurt and Kristan Bridges appeared and testified.

The following documents were presented:

1. Plot plan dated 07/08/2014 signed and sealed by Jane Slavin, Architect.
2. A cover letter dated June 17, 2014 from Jane Slavin, Architect.
3. A memorandum dated 07/07/2014 from Bet VonWurmb, Building Inspector.
4. Zoning Board of Appeals Decision #07-63 dated June 20, 2007.

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), (100,(12) &/or (13); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Bosco, aye; and Mr. Sullivan, aye.

Jane Slavin, Architect, testified that the Bridges' got approval in 2007 for a new garage and a bonus room above it; that they would like to reduce the scope of the work by eliminating the roof dormers; that the lot is oddly shaped and restricts where the garage could be constructed; that they have a revised site plan and rotated the garage slightly; that they would still keep the size and location of the garage and they would like to add an in-ground pool to the plans; that the pool would not require any variances and they would need to appear in front of the Historic Areas Board of Review for the changes and review of the proposed pool.

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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 total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. No significant change in circumstances has occurred since the prior approved variance was granted that would warrant Board reconsideration of its approval.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. Applicants stated that they expect construction to begin in the near future.

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 extension of time to implement the previously approved total 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.


TOWN CLERKS OFFICE
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The foregoing resolution to approve the application for the requested extension of time to implement the previously approved total side yard variance was presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 3, 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.v.W.

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

TOWN CLERKS OFFICE
2014 SEP 16 PM 12 07
TOWN OF ORANGETOWN

DECISION

FRONT YARD, SIDE YARD, TOTAL SIDE YARD, AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED

To: John McNaughton
44 Reld Drive
Pearl River, New York 10965

ZBA # 14-60
Date: September 3, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-60: Application of John McNaughton for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 29.3' existing); (Side Yard: 15' required, 10' 4" existing, 7.3' proposed) and 10(Total Side Yard: 30' required, 29.3' existing) and from Section 5.153 (Accessory structure Distance: 15' required, 5.5' proposed) (Section 5.21 undersized lot applies) for an addition to a single-family residence. The premises are located at 44 Reld Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.10, Block 2, Lot 78; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2014 at which time the Board made the determination hereinafter set forth.

John and Sheila McNaughton and Joe Agnello and Michael Agnello, contractors, appeared and testified.

The following documents were presented:

1. Architectural plans dated November 21, 2013 signed and sealed by Harry J. Goldstein, Architect..
2. Zoning Board of Appeals Decision #71-44 dated 05/19/1971.
3. A petition in support of the project signed by six abutting property owners.

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

John McNaughton testified that they purchased the house four years ago; that it is a two bedroom/ one bath house; that they are proposing to add a master bedroom suite; that an addition was added to the house in the 70's and they are proposing to add the master bedroom above that space; that the 7.3' side yard is existing; that the garage was in its present location when they purchased the house and they were told it was a pre-existing condition; and that they are adding to the house and need to legalize everything now.

Sheila McNaughton testified that the neighbor's house is on the property line and their garage is five feet from the property line and their house is the smallest house on the block.

Joe Agnello, contractor, testified that the proposed addition is following the existing line of the house and not extending any further.

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CLERK'S OFFICE
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Public Comment:

Patrick Hannan, 49 Reld Street, Pearl River, testified that he lives directly across the street from the applicant and he is 100% in support of the application; that the proposal is very reasonable and that he built a new house last year.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard, side yard, total side yard and accessory structure distance 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 front yard, side yard, total side yard and accessory structure distance 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 front yard, side yard, total side yard and accessory structure variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard, side yard, total side yard and accessory structure distance 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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The foregoing resolution to approve the application for the requested front yard, side yard, total side yard and accessory structure distance variances was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 3, 2014

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
2014 SEP 16 PM 12 08
TOWN CLERKS OFFICE

DECISION
SIDE YARD VARIANCE APPROVED

To: Alex Lococo
444 Washington Street
Tappan, New York 10983

ZBA # 14-61
Date: September 3, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-61: Application of Alex Lococo for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 10' proposed) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 444 Washington Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 31; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2014 at which time the Board made the determination hereinafter set forth.

Alex Lococo appeared and testified.

The following documents were presented:

1. Survey with pool drawn on it..
2. Pool plans and filter.
3. A letter dated July 23, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated August 28, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

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

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

Alex Lococo testified that he would like to install a pool that is part in-ground and part above ground for his kids and himself; that his property is L shaped and this is the only area that the pool would fit; that it is only 15' wide and it is proposed to be installed between the concrete patio and exiting trees; that the property is narrow in the rear; that the property is fenced in; that he already got the permit from Rockland County Highway; and that his neighbor to the rear had a pool but filled it in last year when her husband passed.

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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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is L shaped and there is no other area that would accommodate a pool.
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 property is L shaped and there is no other area that would accommodate a pool.
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, although somewhat substantial, affords benefits to the applicants that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property is L shaped and there is no other area that would accommodate a pool.
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
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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard 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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Lococo
ZBA#14-61
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The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 3, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
2014 SEP 16 PM 12 08
TOWN OF ORANGETOWN

DECISION
**FLOOR AREA RATIO, FRONT YARD, AND SIDE YARD VARIANCES
APPROVED**

To: Scott and Jamie Silver
243 Betsy Ross Drive
Orangeburg, New York 10962

ZBA # 14-62
Date: September 3, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-62: Application of Scott and Jamie Silver for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-22 District, Group I, Columns 4 (Floor Area Ratio: .20 permitted, .217 proposed), 8 (Front Yard: 40' required, 32.1' existing) and 9 (Side Yard: 25' required, 21.4' proposed) for an addition to an existing single-family residence. The premises are located at 243 Betsy Ross Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.16, Block 2, Lot 67; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2014 at which time the Board made the determination hereinafter set forth.

Jamie Silver and Michael Esmay, Architect, appeared and testified.

The following documents were presented:

1. Site plan and architectural plans dated 09/18/ 2012 signed and sealed by Michael Esmay, Architect. (6 pages)
2. A letter dated July 23, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated August 29, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated 04/23/2014 from Doctor Steven Sockin.
5. A letter dated August 25, 2014 from Jamie Silver.
6. A petition in support of the application signed by 12 abutting property owners.

Mr. Sullivan, Chair, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco 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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye.

Jamie Silver testified that they would like to remove the existing deck and build a screened in porch with a small deck outside of it; that her husband has a severe allergy to bees and they cannot eat outside on the existing deck because the food always brings bees; that she has three small children aged 6, 3 and 6 months; that she is not sure if any of the kids will have her husbands' allergy; that if she had the screened in porch the kids could play there and be safe; and that she took a picture of the house up the street that has a screened porch and deck similar to what they are proposing.

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Michael Esmay, Architect, testified that the house fills the whole building envelope; that anything that was added to the house would require a variance; that this works with the house function; that it is a logical extension of the house; that the structure is set in a little to minimize the variances and the small deck allows access to the back yard; that the lot is undersized and this is a reasonable request.

Public Comment:

Joe Morgan, 229 Betsy Ross Drive, testified that he is the diagonal neighbor to the proposed addition and he is speaking in support of the application because it will enhance the neighborhood and give the applicant peace and safety from the medical problems.

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

TOWN OF ORANGETOWN
CLERK
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2014

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

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested front yard, floor area ratio and side yard variances was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, 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 3, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2014 SEP 16 PM 12 09
TOWN CLERKS OFFICE

DECISION

SIDE YARD VARIANCE APPROVED UNDERSIZED LOT APPLIED

To: John Rooney
187 Ann Street
Pearl River, New York 10965

ZBA # 14-63
Date: September 3, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-63: Application of John Rooney 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, 9.3' proposed) (Section 5.21(c) undersized lot applies) for a deck at an existing single-family residence. The premises are located at 187 Ann Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 73.05, Block 1, Lot 4; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 3, 2014 at which time the Board made the determination hereinafter set forth.

John Rooney and Julius Georgetti, contractor, appeared and testified.

The following documents were presented:

1. Survey dated August 30, 2011 signed and sealed by Robert Sorace. PLS..
2. Deck plans.
3. A letter dated August 12, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
4. A letter dated August 12, 2014 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated August 29, 2014 from the County of Rockland Department of Highways signed by Sonny Lin. P.E..

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

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

John Rooney testified that he would like to replace an existing deck and build a new deck in its place; that it will be the same size but will have more footings and a better railing built to code; that it is also going to be built from treks; and that the deck follows the line of the existing house and the 9.3' side yard is existing.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has existed for many years and is being rebuilt in the same location.
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 deck has existed for many years in its present location and is being rebuilt for safety reasons.
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 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. The deck has existed for many years in its present location and is being rebuilt for safety reasons.
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.

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

General Conditions:

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

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

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

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

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

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

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

DATED: September 3, 2014

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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FILE,ZBA, PB
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