

MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 16, 2015

MEMBERS PRESENT: DAN SULLIVAN
JOAN SALOMON
LEONARD FEROLDI, ALTERNATE
THOMAS QUINN

ABSENT: MICHAEL BOSCO
PATRICIA CASTELLI

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:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

REILLY 17 Woodland Terrace, Orangeburg, NY 74.13 / 1 / 37; R-22 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#15-73
JOUAS 26 Iroquois Avenue Palisades, NY 78.17 / 1 / 42; R-15 zone	FRONT YARD, SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#15-74
MARESCA 154 South William Street Pearl River, NY 72.08 / 1 / 87; RG zone	SIDE YARD, TOTAL SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#15-75
MUCKELL 19 Marycrest Road West Nyack , NY 69.07 / 1 / 21; R-40 zone	ACCESSORY STRUCTURE IN FRONT YARD APPROVED	ZBA#15-76
CHUNG 246 Route 9W Palisades, NY 78.17 / 2 / 18; R-40 zone	STREET FRONTAGE AND §280-a VARIANCES APPROVED	ZBA#15-77
KUPFERSCHMID 115 Route 303 Tappan, NY 77.07 / 2 / 1; LO zone	CONTINUED	ZBA#15-78
BRADLEY CORPORATE PARK Bradley Corporate Park Section IV Blauvelt, NY 70.06 / 1 / 50.4; LO zone	CONTINUED	ZBA#15-79

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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: The Hollows Site Plan Amendment, 500 Veterans Highway, Pearl River, NY; 73.05 / 1 / 53; PAC zone; Bradley Industrial Park Parking Site Plan, 500 Bradley Hill Road, Blauvelt, NY 70.06 / 1 / 50.4; LO zone; 319 Blauvelt Road Subdivision Plan 2 lot, 319 Blauvelt Road, Pearl River, NY 69.09 / 5 / 74; R-15 zone; Kenney Deck Plans critical environmental area, 815 Route 9W, Upper Grandview, NY 75.05 / 1 / 7.1; R-22 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 10:45 P.M.

Dated: September 16, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

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DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Tom and Brandy Reilly
17 Woodland Terrace
Orangeburg, New York 10962

ZBA #15-73
Date: September 16, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-73: Application of Thomas and Brandy Reilly for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-22 District refers to R-15 District,(Average Density) Group M, Column 4 (Floor Area Ratio: .20 permitted, .224 proposed) for an addition to an existing single-family residence. The premises are located at 17 Woodland Terrace, Orangeburg New York and are identified on the Orangetown Tax Map as Section 74.13, Block 1, Lot 37; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2015 at which time the Board made the determination hereinafter set forth.

Tom and Brandy Rielly and Mike McNally, contractor, appeared and testified.

The following documents were presented:

1. Copy of survey with proposed addition drawn on it. (1 page).
2. Architectural plans labeled "Proposed Addition to the Reilly Residence" dated June 5, 2015 signed and sealed by Paul Douglas Siebenaler, Registered Architect (2 pages).
3. A letter dated September 4, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 11, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A letter dated August 17 2015 from the County of Rockland Department of Health signed by Scott Mc Kane, P.E..
6. A letter dated September 9, 2015 from the County of Rockland Sewer District No.1 signed by Joseph La Fiandra, Engineer II.

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

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

Tom Reilly testified that they are proposing to add a bedroom and bathroom on the first level of the house in the rear of the house for his mom; that they have owned the house for nine years and have three children; and that his mom just relocated back here from Florida.

Mike McNally testified that the proposed addition is small at only 289 sq. ft.; that the family needs to provide Mike's mom with a private bedroom and bathroom on the first level of the house; that similar additions have been constructed in the neighborhood; that #2 Woodland did a similar addition but they did not require a variance because their lot is a little bit larger; that # 12 did a similar addition to the rear of the property and was granted a variance; that the proposed addition does not create an undesirable change in

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the neighborhood character or to nearby properties; that the request will not have an adverse physical or environmental effects on the neighborhood.

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 floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variance.
4. The requested floor area ratio variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. 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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio 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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Reilly
ZBA#15-73
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The foregoing resolution to approve the application for the requested floor area ratio variance was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent for this hearing.

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

DATED: September 16, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

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

To: Jean Pierre Jouas
26 Iroquois Avenue
Palisades, New York 10964

ZBA #15-74
Date: September 16, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-74: Application of Jean Pierre Jouas for variances from Zoning Code Chapter 43 of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Columns 8 (Front Yard: 30' required, 21' proposed), 9 (Side Yard: 20' required, 12' and 15' proposed) and 12 (Building Height: 15' permitted, 16' proposed) for an addition to an existing one-family residence. The premises are located at 26 Iroquois Avenue, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 1, Lot 42 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2015 at which time the Board made the determination hereinafter set forth.

Michael Scharff, Architect, Jean and Linda Jouas appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Mr. & Mrs. Jean Pierre Jouas" dated 7/7/2015 with the latest revision date of 7/23/2015 signed and sealed by Michael J. Scharff, Registered Architect (4 pages).
2. A letter dated September 4, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated September 8, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated August 17, 2015 from the County of Rockland Department of Health signed by Scott Mc Kane, P.E..
5. A letter dated September 9, 2015 from the County of Rockland Sewer District No.1 signed by Joseph La Fiandra, Engineer II.
6. Five letters of support from abutting property owners.

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

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

Michael Scharff, Architect, testified that the family has lived in the house for 33 years; that they raised their family in the house and are ready to move into the next phase of their lives, active retirement; that the proposal includes plans to expand the kitchen, add a sunroom and deck; that the existing lot is a corner property with two front yards; that the proposed sunroom shall be located on the south end of the house because the plants will need a southern exposure; that the south end of the house is the second front yard; and requires a variance; that the kitchen is located off the rear of the house and the proposal for the expansion of it will go further into the rear yard; that the deck will be located off of the kitchen expansion; that the entire rear property line is separated from the property to the east by a substantial hedge line that is between 10 and 12 feet high; and that the

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hedge also screens along Dakota for the proposed sunroom.

Jouas
ZBA#15-74
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Public Comment:

Eileen Larkin, 15 Horne Tooke Road, testified that she knows the family for 33 years; that they maintain the property beautifully and are an asset to the neighborhood; and that she fully supports the application.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

General Conditions:

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

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

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

DATED: September 16, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Gary and Jennifer Maresca
154 South William Street
Pearl River, New York 10965

ZBA #15-75
Date: September 16, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-75: Application of Gary and Jennifer Maresca for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Group Q, Columns 4 (Floor Area Ratio: .30 permitted, .31 proposed), 9 (Side Yard: 10' required, 5' existing, 6.3' proposed), 10 (Total Side Yard: 30' required, 25.2' proposed), and 12 (Building Height: 17' permitted, 22.4' proposed) for an addition to a single-family residence. The premises are located at 154 South William Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 72.08, Block 1, Lot 87; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 16, 2015 at which time the Board made the determination hereinafter set forth.

Gary Maresca and Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "The Maresca Residence" dated January 19, 2015 with the latest revision date of July 28, 2015 signed and sealed by Jonathan Hodash, Registered Architect (11 pages).

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

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

Jonathan Hodash, Architect, testified that this house has been in the same family since it was built in 1916; that it is a small house with three bedrooms and one bathroom; that the owners would like to enlarge the bedrooms and add two more bathrooms; that the house was built before zoning and many of the conditions are pre-existing and the proposed addition is extending those pre-existing conditions and some of the new variances are less than the existing conditions; that the new roof line mimics the existing and the height variance is based on the highest point of the roof.

Gary Marceso testified that his wife's great grandfather built the house in 1916; that it has been in the family ever since; that they purchased the house in 2006 and would like to make the house more accommodating to their family.

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

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

General Conditions:

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

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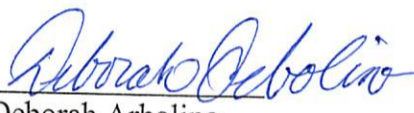
Maresca
ZBA#15-75
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The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ; Ms. Salomon, aye; and Mr. Sullivan, aye. Ms. Castelli and Mr. Bosco were absent for this hearing.

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

DATED: September 16, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
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DECISION

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

To: James and Ann Muckell
19 Marycrest Road
West Nyack, New York 10994

ZBA #15-76
Date: September 16, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-76: Application of James and Ann Muckell for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 5.153, (Accessory Structures or Pools shall not be located in the front yard: pool is located in the front yard) for an existing above-ground pool at an existing single-family residence. The premises are located at 19 Marycrest Road, West Nyack, New York and are identified on the Orangetown Tax Map as Section 69.07, Block 1, Lot 21; 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 16, 2015 at which time the Board made the determination hereinafter set forth.

James Muckell appeared and testified.

The following documents were presented:

1. Copy of site plan with the pool and deck drawn on it. (1 page).
2. A letter dated September 10, 2015 from Rudolph J. Yacyshyn, Vice Chairman, Clarkstown Planning Board.

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

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

James Muckell testified that he purchased his house in 1985 and they installed the pool shortly after; that the pool was installed in the backyard; that McCandless Court did not exist when the pool was constructed; and now the pool is in a front yard.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested §5.153 Accessory structure in the front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is a corner lot with more than one front yard, and the road that runs along the side of the property did not exist when the pool was installed.
2. The requested §5.153 Accessory structure in the front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is a corner lot with more than one front yard, and the road that runs along the side of the property did not exist when the pool was installed.
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 §5.153 Accessory structure in the front yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property is a corner lot with more than one front yard. and the road that runs along the side of the property did not exist when the pool was installed.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested §5.153 Accessory structure in the front yard variance 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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Muckell Pool
ZBA#15-76
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The foregoing resolution to approve the application for the requested § 5.153 Accessory structure in the front yard variance was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Ms. Castelli and Mr. Bosco 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 16, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

**STREET FRONTAGE VARIANCE AND New York STATE TOWN LAW 280a
EXCEPTION APPROVED**

To: Marc Comito (Chung)
P.O. Box 300
West Nyack, New York 10994

ZBA #15-77
Date: September 16, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15- 77: Application of Young Ju Chung for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-40 District, Group E, Column 7 (Street Frontage: 100' required, 0' proposed) for the construction of a new single-family residence. The premises will be located at 246 Route 9W, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 18; 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 16, 2015 at which time the Board made the determination hereinafter set forth.

Terry Rice, Attorney, Robert Hoene, Architect, Jay Greenwell, Land Surveyor and Marc Comito, Contractor, appeared and testified.

The following documents were presented:

1. Plot plan labeled "Plot Plan for Building Permit Chung" dated July 8, 2015 signed and sealed by Jay Greenwell, L.S. and Paul Gdanski, P.E. (1 page)
2. Architectural plans labeled "Chung Residence" dated 3/5/2013 with the latest revision date of 7/15/2015, by Robert Hoene, Architect. (7 pages)
3. A letter dated September 9, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 8, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A letter dated September 9, 2015 from the County of Rockland Sewer District No.1 signed by Joseph La Fiandra, Engineer II.
6. A tax map.

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

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

Terry Rice, Attorney, testified that this lot is completely landlocked; that the only way for viable use of the property is through the two front lots; that the lot is 95,600 sq. ft. lot in an R-40 zone; that the posting was done properly and one poster was on the road at the existing 15' wide driveway; and that the driveway will be 15' wide and will require a permit from Kinder Morgan for the proposed crossing of the Tennessee Gas right-of-way.

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Jay Greenwell, Land Surveyor, testified that they did appear before the HABR and are working on revising the house plans to be more in line with the requests of the Board; that he did a research and handed out a tax map with other properties in the area that did not have street frontage; and testified that the applicant would need approval from the Department of Transportation, the Army Corp of Engineers, and Kinder Morgan; that he did find an old map that was dated 1945 by F. Wright and labeled for Henry Kennell that showed part of the property conveyed to the driving range, and a proposed easement that is very similar to what they are proposing today; that it is interesting informational history; that in 1997 the lots were deeded to June Park in two separate deeds and in 2005 they were conveyed to Chung in two separate titles and in separate names; that Mrs. Chung owns some and Mr. Chung the other; that without access by right-of-way the property is deprived of its use; and that they would not object if the Board chose to grant a 280-a and the street frontage variance; that he worked on a property over on Lauren and Oak Tree Road where the property crosses the Tennessee pipeline and the property had to be excavated by hand and had to be in compliance with Kinder Morgan and the same will have to be done here.

Public Comment:

Blythe Anderson Chase, 286 Route 9W, testified that the driveway is not consistent with the neighborhood because it is gated and it is a large driveway.

Larry Bucciarelli, 700 Oak Tree Road, testified that he is speaking as a private citizen and not a member of HABR; that he recused himself from the Board when the applicant appeared before HABR; that the property was not properly posted; that the postings were not seen from the road; that the flag lot is held in different names; that the home on this lot could be built and another house could be built to the south and a third lot added; that crossing the Tennessee gas line is dangerous; that he remembers when the County was dredging the Sparkill Creek and they had to stop because they almost hit the gas line; that the gas line is not properly marked and could be a problem if the sewer main clogs.

Paul Riccobono, 15 Hey Hoe Woods Road, testified that he would like to know if the same person owns all of these lots.

Eileen Larkin, 15 Horne Tooke Road, testified that Rockland County Drainage should have to comment on this and questioned if the map was sent to them for review; and asked about ownership of the lots and if they were going to build more than one house.

Phillip Bauman, 236 Route 9W, testified that he has concerns similar to Larry's regarding the safety of crossing the Tennessee gas line with a driveway and the impact that could have on the community; that this is a red herring and there should be an alternate plan for the driveway that does not cross the gas line.

Carol Baxter, 34 Lawrence Lane, testified that this house is not in keeping with the historic area around it and asked everyone from Palisades to raise their hands if they agreed with her.

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.

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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 street frontage variance and NY State Town Law 280-a exception will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are several properties in the area that lack street frontage.
2. The requested street frontage variance and NY State Town Law 280-a exception will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There are several properties in the area that lack street frontage.
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 street frontage variance and NY State Town Law 280-a exception, 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. There are several properties in the area that lack street frontage.
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 street frontage variance and NY State Town Law Section 280-a exception 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 street frontage variance and NYS Town Law Section 280-a exception was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Ms. Castelli and Mr. Feroldi were absent for this hearing.

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

DATED: September 16, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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FILE,ZBA, PB
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