

DECISION

**SIDE YARD VARIANCE APPROVED; UNDERSIZED LOT ACKNOWLEDGED
3.4' SIDE YARD FOR THE EXISTING GARAGE ACKNOWLEDGED**

To: Dominick Caponigro (DeLuca)
8 Adler Court
West Haverstraw, New York 10993

ZBA #20-33
Date: June 3, 2020
Permit #49744

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-33: Application of Michael DeLuca for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, RG District, Group Q, Section 3.12., Column 9 (Side yard: 10' required, 9.6' existing, 8' proposed) ; (Section 5.21 Undersize lot applies) for an addition to an existing single-family residence. The premises are located at 86 Hunt Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, Block 5, Lot 8 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2020 at which time the Board made the determination hereinafter set forth.

Michael DeLuca appeared and testified.

The following documents were presented:

1. Plans labeled "DeLuca Residence One-Story Addition" dated October 10, 2019 signed and sealed by Harold J. Goldstein, Architect. (2 pages).

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

Michael DeLuca testified that he has lived in the house for two years; that he has four children and is divorced; that the house has three bedrooms and 1 ½ baths; that he has his children at the house 30% of the time; that his girlfriend and her three daughters just moved in; that her daughters are living in the house 70% of the time; that the combined family of seven kids requires more space and more bathrooms; and they would like to add a master bedroom and bath upstairs and a large room below it with another bathroom in the future; and that the existing garage was built in 1924.

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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 Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged that the garage that was constructed in 1924 was set back 3.4' from the side yard.
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 Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged that the garage that was constructed in 1924 was set back 3.4' from the side yard.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard variance is not substantial, and 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 Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The Board also acknowledged that the garage that was constructed in 1924 was set back 3.4' from the side yard.

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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.

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 is APPROVED and the existing 3.4' side yard for the existing detached garage and undersized lot is acknowledged; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, 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: June 3, 2020

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

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DECISION

FRONT YARD AND SIDE YARD VARIANCES APPROVED

To: John Atzl (Mandell)
234 North Main Street
New City, NY 10956

ZBA #20-35
Date: June 17, 2020
Permit #46394

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-35: Application of Eduard Mandell for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District, Group I, Section 3.12, Columns 8 (Front Yard: 40' required, 31.1' existing to main dwelling, 29' proposed to front deck and 35' to proposed new garage) and 9 (Side Yard: 25' required, 23.8' existing, 22' proposed to covered deck) for an addition to an existing single-family residence. The premises are located at 26 Shadyside Avenue, Upper Grandview, New York and is identified on the Orangetown Tax Map as Section 71.05, Block 1, Lot 8 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Ryan Nasher, P.E., Atzl, Nasher & Zigler, P.C., and Eduard Mandell appeared and testified.

The following documents were presented:

1. Plans labeled "Mandell Residence" dated 6/16/17 with the latest revision date of 2/10/20 signed and sealed by John Atzl, L.S. & Ryan A. Nasher, P.E. (4 pages).
2. Architectural plans dated July 2018 with the latest revision dated of July 2019 signed and sealed by Kathleen Rifkin, Architect, (A-7 & A-6).
3. Isometric drawings (9 pages).
4. A memorandum dated February 28, 2020 from Jane Slavin, Architect, Director, O.B.Z.P.A.E..
5. A letter dated April 2, 2020 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated March 20, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
7. A memorandum dated June 17, 2020 from John Atzl explaining a mistake on the plan regarding the height.
8. An e-mail dated June 17, 2020 4:01 P.M. from Suzanne Silverstein with concerns about drainage.
9. An e-mail dated June 17, 2020 4:50 P.M. from Daniel Orlando with concerns about drainage with two pictures attached.

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

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning board noticed its' intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning board conducted SEQRA reviews and on June 14, 2017 (as set forth in PB# 17-28), rendered an environmental determination that no significant adverse environmental impacts would result from the proposed land use actions (i.e. a "Negative Declarations" or "Neg. Dec"), the ZBA is bound by the Planning Board's Negative Declaration, and the BA cannot require further SEQRA review pursuant to SEQRA Regulations §617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Ryan Nasher, P.E., testified that he is the engineer for the site; that the applicant needs variances for the decks in the front and side of the property; that they are proposing to build a detached two car garage, walls decks and a gazebo; that he property is in a R-22 zoning district and an critical environmental area; that the variances were previously approved but the applicant was not ready to build yet and they lapsed; that the revised plan shows a small deck at the rear of the house with a patio; that there is typo on the plans regarding the height of the building and that this would be corrected upon final submission to the Building Department; that they have received preliminary approval from the Planning board and were sent to this board for the variances and then they must appear before ACABOR and back to the Planning Board; that the drainage improvement plan has been approved by the DEME; that from west to east it is a steep slope and there are walls in the rear of the house; that there is a flatter area of the yard where the play recreational area is and they are installing an infiltration system away from the existing wall with a splash back by the building and they could look into minimizing the impact to the east; that the south roof drain goes underground and it could be tied into the 12" pipe to the 2' ditch and then go under-ground; that the deck in the front of the house is new and the deck in the rear of the house is being replaced and a patio added; that the drainage easement cannot be touched and no improvements can be made in it; that the roof drains go into a catch basin and then a level spreader to slow down and spread out; that there will be zero net increase ; that he has no objection to a chamber storage detail in place of the drywell; that DEME has to agree; that the roof drain will capture the downspout west to east and pipe into the proposed catch basin around the perimeter of the foot drain.

Public Comment:

Suzzane Silverstein, 24 Shadyside, testified that she is concerned about the pitch of the roof on the proposed garage and that it will drain onto her property; that she already gets water from Townsend Avenue and the Town finally put in a catch basin; and she does not want more water on her property; that she spent money on landscaping to help with the water.

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. 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 and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the lot is in a critical environmental area and that similar additions have been constructed in the neighborhood.
2. The applicant has agreed to tie a 12" pipe to the 2' wide ditch and to add an additional drywell by the garage all subject to approval by the Town DEME. The applicant also stated that they will correct the error regarding building height of the dwelling and the garage on the plans.
3. The requested 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. The Board acknowledged the lot is in a critical environmental area and that similar additions have been constructed in the neighborhood.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested front yard and side yard variances although somewhat substantial, and 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 Board acknowledged the critical environmental area and noted that similar additions have been constructed in the neighborhood.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.


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The foregoing resolution to approve the application for the requested front yard and side yard variances are APPROVED with the Specific Condition that the applicant tie the 2' drainage ditch into the 12" pipe and direct it into the underground drainage system being installed and improve the drainage by the proposed garage subject to Town DEMA approval;; was presented and moved by Ms. Castelli, seconded by Mr. Bonomolo and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; and Ms. Castelli, 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: June 17, 2020

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

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DECISION

LOCAL LAW #7 SECTION 4.58 EXCEPTION APPROVED

To: Catherine Ruddy
53 East Washington Avenue
Pearl River, New York 10965

ZBA #20-34
Date: June 3, 2020
Permit #49864

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-35: Application of Catherine Ruddy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 4.58 (owner who first converts the dwelling must have resided in said dwelling for at 15 years; 13 years verified ownership) to legalize an existing local law #7 apartment. The premises are located at 53 East Washington Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, Block 4, Lot 21 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2020 at which time the Board made the determination hereinafter set forth.

Catherine Ruddy appeared and testified.

The following documents were presented:

1. Plans labeled "Ruddy Residence" dated March 20, 2020 signed and sealed by John Anthony Ferraro, Architect. (1 page).
2. Site Plan labeled Lee Residence 53 Washington Avenue Pearl River not dated Gordon A. Gebert, Architect.

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

Catherine Ruddy testified that she purchased her house 13 years ago as a two-family; that she was told that she had a legal apartment in the house; that she has been paying taxes on a two family; that she is in the process of selling the house and during the listing process, she found out that she does not have a C of O for a two family house; that she doesn't have a local law #7 and that she was duped when she purchased the house 13 years ago; that she purchased it with the

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apartment; that she always thought she had a legal apartment and she would like to legalize the apartment now; that as far as she knows it was a mother daughter for at least 20 years; and she has spent thousands of dollars for architectural plans and electric underwriters certificate; that she will decide not to sell the house and just legalize the apartment if the board grants her a variance to get the local law #7 legal apartment; that taking out the stove to sell the house is just duping the next owner and not solving any of the problems.

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 Local Law #7 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 481 sq. ft. second floor apartment existed when the applicant purchased the house and she is legalizing the existing condition by requesting the Local Law #7.
2. The requested Local Law #7 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 481 sq. ft. second floor apartment existed when the applicant purchased the house and she is legalizing the existing condition by requesting the Local Law #7.
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 Local Law #7 variance although somewhat substantial, and 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 481 sq. ft. second floor apartment existed when the applicant purchased the house and she is legalizing the existing condition by requesting the Local Law #7.

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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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Local Law #7 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 Local Law #7 variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, 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: June 3, 2020

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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TOWN CLERK'S OFFICE

DECISION

EXTENSION OF TIME TO IMPLEMENT VARIANCES FROM ZBA#18-79 & ZBA #19-41 GRANTED FOR

To: John Atzl (Bethany Mar Thoma Church)
234 North Main Street
New City, New York 10956

ZBA #20-36
Date: June 17, 2020
Permit #47839 & 48532

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-36: Application of Bethany Mar Thoma Church for an extension of time to implement variances that were granted in ZBA#18-79: Chapter 43 of the Town of Orangetown Code, Section 3.12, R-80 District, Group B, Columns 4 (Floor Area Ratio: 105 permitted, 22% proposed), 5 (Lot Area: none required, 1.036 acres provided), 8 (Front Yard: 50' required, 12' proposed) 9 (Side Yard: 30' required, 4' proposed for church, 3.8' for pastors residence) , 10 (Total Side Yard: 100' required, 7.8' proposed) and 12 (Building Height: 12' permitted, 23' proposed) and from variances granted in ZBA 19-41: from R-80 District, Section 3.11, Column 5 Paragraph 12 (one sign not over 20 sq. ft. must be 25' from any lot line : 32 sq. ft. sign proposed, 10' from the front yard and 5' from the side yard and 2 sq. ft. of non-illuminated directional sign permitted: 6.25 sq. ft. per sign proposed, 12.4 sq. ft. proposed) for signs and an addition to an existing church. The property is located at 90 Old Orangeburg Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.09, Block 1, Lot 64 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Ryan Nasher, P.E. and Frank Phillips, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Bethany Mar Thoma Church Site Development Plan dated June 16, 2018 with the latest revision date of January 14, 2020 signed and sealed by John R. Atzl, L.S., and Ryan Nasher, P.E..
2. A cover letter dated March 9, 2020 from Atzl, Nasher & Zigler, P.C..

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning board noticed its' intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning board conducted SEQRA reviews and on September 12, 2018 (as set forth in PB# 18-31), rendered an environmental determination

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that no significant adverse environmental impacts would result from the proposed land use actions (i.e. a “Negative Declarations” or “Neg. Dec”), the ZBA is bound by the Planning Board’s Negative Declaration, and the BA cannot require further SEQRA review pursuant to SEQRA Regulations §617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Frank Phillips, Attorney, testified that the church is trying to renovate and expand and the pastor’s residence is to remain in its present location; that they received the approvals from the Boards for variances and a preliminary approval over a year ago but part of the approval was with the condition that a maintenance and easement agreement with the abutting property, Joseph’s Home, needed to be filed with the Rockland County Clerk and was recently filed, and it took all this time to work that out; and then the Corona Virus hit, and now the variances have expired; that they went before the Board this past Monday and got approval based on getting the extension of time for the variances from this Board and that they would like to start to construction as soon as possible.

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 extension of time to implement the variances that were granted in ZBA# 18-79 and ZBA #19-41 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. No significant change in circumstances has occurred since the prior approved variance was granted that would warrant Board reconsideration of its approval.
3. Applicants stated that they expect construction to begin in the near future.

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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 extension of time to implement variances that were granted in ZBA#18-79 (permit#47839) & ZBA# 19-41(permit # 48532) 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 CLERK'S OFFICE

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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the extension of time to implement variances that were granted in ZBA# 18-79 (permit #47839) & ZBA# 19-41(permit# 48532) is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, 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: June 17, 2020

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE