

MINUTES
ZONING BOARD OF APPEALS
July 15, 2020

MEMBERS PRESENT: DAN SULLIVAN
PATRICIA CASTELLI
ROB BONOMOLO, JR.
BILLY VALENTINE
MICHAEL BOSCO

ABSENT: THOMAS QUINN

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney

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

HORAN
619 Orangeburg Road
Pearl River, NY
69.18 / 1 / 86; R-15 zone

SECTION 5.227 REAR YARD
AND SIDE YARD FOR POOL
APPROVED

ZBA#20-44

323 BLAUVELT ROAD
323 Blauvelt Road
Pearl River, NY
69.09 / 5 / 73; R-15 zone

TOTAL SIDE YARD VARIANCE
APPROVED

ZBA#20-45

GOLDRICK
12 Private Lovett Court
Blauvelt, NY
69.12 / 1 / 7.2 : R-80 zone

REAR YARD VARIANCE
APPROVED

ZBA#20-46

SHEEHAN
19 Staubitz Avenue
Pearl River, NY
69.10 / 1 / 50; R-15 zone

SECTION 5.227 REAR YARD
FOR SWIMMING POOL APPROVED
YARD VARIANCES APPROVED

ZBA#20-47

ROOST AT 2 UNION
2 Union Street
Sparkill, NY
77.08 / 5 / 16; R-15 zone

REAR YARD VARIANCE
APPROVED

ZBA#20-48

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

ROGERS
50 Cara Drive
Pearl River, NY
69.06 / 2 / 13; R-15 zone

SIDE YARD AND
TOTAL SIDE YARD VARIANCES
APPROVED AS MODIFIED

ZBA#20-49

LAMOND
4 Paul Court
Tappan, NY
77.11 / 2 / 45; R-15 zone

SECTION 5.153 DISTANCE FROM
PRIMARY STRUCTURE VARIANCE
APPROVED WITH SPECIFIC CONDITION

ZBA#20-50

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 9:05 P.M.

Dated: July 15, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

Deborah Arbolino, Administrative Aide

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

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

DECISION

**SIDE YARD VARIANCE AND SECTION 5.227 REAR YARD FOR A POOL
VARIANCE APPROVED**

To: William Horan
619 Orangeburg Road
Pearl River, NY 10965

ZBA #20-44
Date: July 15, 2020
Permit #50056

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-44: Application of William and Eileen Horan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12 Columns 9 (Side Yard: 20' required, 10' proposed) and from Section 5.227 (Pool must be 20' from rear yard: 10' proposed) for an above-ground pool at an existing single-family residence. The premises are located at 619 Orangeburg Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.18, Block 1, Lot 86 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

William Horan appeared and testified.

The following documents were presented:

1. Copy of original survey with the pool drawn on it.
2. A letter dated June 23, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. Letters dated July 6, 2020 and July 13, 2020 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
4. A no comment memo from the Rockland County Highway Department signed by Dyan Rajasingham, P.E.
5. Two letters dated June 4, 2020 in support of the project from neighbors Kevin T. Farrell of 20 Robin Street, Pearl River, NY and Dennis and Dorothy Scherer of 599 Orangeburg Road, Pearl River, NY.

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. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn was absent.

William Horan testified that he would like to install an above-ground pool in the rear back; that the lot is a flag lot and the house is set back behind another house; that he has owned the house for eight years; that he has letters of support from the two neighbors closest to where the pool is being proposed; that the front of his house does not face the street, it faces another house and that there is a deck and a patio at the rear of the house and if the pool was moved closer to the house it would be very close to the patio and would not be aesthetically pleasing.

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and Section 5.227 rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other properties in the area have installed above-ground pools.
2. The requested side yard and Section 5.227 rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other properties in the area have installed above-ground pools.
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 and Section 5.227 rear yard variances are 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. Other properties in the area have installed above-ground pools.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

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

General Conditions:

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

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and Section 5.227 rear yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

DECISION

TOTAL SIDE YARD VARIANCE APPROVED

To: Joseph S. Scarmato, Esq. (323 Blauvelt Rd)
105 Lewis Drive
Pearl River, New York 10965

ZBA #20-45
Date: July 15, 2020
Permit #49942

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-45: Application of 323 Blauvelt Road for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 10 (Total Side Yard: 50' required, 39.3' existing to the a ramp and 43.9' to an existing deck at an existing single-family residence. The premises are located at 323 Blauvelt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 73 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

Joseph Scarmato, Attorney, appeared and testified.

The following documents were presented:

1. Survey labeled "Rosemary Amabile" dated March 9, 2020 (1page).
2. A memorandum dated June 15, 2020 from the Rockland County Department of Planning.
3. An out of jurisdiction memo from Rockland County Highway Department.
4. No comments from the Rockland County Health Department.

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. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was absent.

Joseph Scarmato, Attorney, testified that he is represents Rosemary; that she and her husband purchased the house in 1986; that the house was built in the 1950's; that the house was built with a non-conforming side yard; that the deck and ramp that her husband built added to the non-conforming; that his client found out that the deck and ramp were a problem when she was selling the house; that they are trying to legalize the condition for the new owners; that the deck and ramp have existed for the last 24 years without incident and it is not a detriment to neighbors and not being granted the variances would be a hardship for his client.

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

Public Comment:

Joseph Rooney a neighbor, of 317 Blauvelt Road, Pearl River, NY. asked if the current occupants of the house were the new owners.

Joseph Scarmato answered that the purchasers are living in the house under a pre-closing occupancy agreement.

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 Mr. Bosco and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The ramp and deck have existed without issue for some time.
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. The ramp and deck have existed without issue for some time.
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 total 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 ramp and deck have existed without issue for some time.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested 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 CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested total side yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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-Dom M.

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

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

DECISION

REAR YARD VARIANCE APPROVED

To: James and Dara Goldrick
12 Private Lovett Court
Blauvelt, New York 10913

ZBA #20-46
Date: July 15, 2020
Permit #49974

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-46: Application of James and Dara Goldrick for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-40 District, Group E, Section 3.12, Column 11 (Rear Yard: 50' required, 23.4' existing to a shed) at an existing single-family residence. The premises are located at 12 Private Lovett Court, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 69.12, Block 1, Lot 7.2 in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

James Goldrick appeared and testified.

The following documents were presented:

1. Survey with the shed on it by Robert Sorace, P.L.S. dated April 7, 2020.

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 Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was absent.

James Goldrick testified that he had the shed delivered and placed in the rear yard about ten years ago; that his father-in-law, who was a building inspector told him that it needed a 20' setback; that he is getting ready to downsize and found out that this information was not correct and he is before the Board to legalize the existing shed; that the reason he chose that area for the shed is it is flat and the ground slopes towards the reservoir and if he moved further up into the property to get the fifty foot requirement is would be sitting up in hill and look silly.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing shed has been in its present location for ten years and the property slopes; this location is flat.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing shed has been in its present location for ten years and the property slopes; this location is flat.
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 rear 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 existing shed has been in its present location for ten years and the property slopes; this location is flat.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

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

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Valentine, aye; Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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-Dom. M.

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

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

DECISION

SECTION 5.227 REAR YARD VARIANCE APPROVED

To: Christopher Sheehan
19 Staubitz Avenue
Pearl River, New York 10965

ZBA #20-47
Date: July 15, 2020
Permit #50144

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-47: Application of Christopher Sheehan for a variance from the Zoning Code Town of Orangetown Chapter 43, Section 5.227 (20' Rear Yard required for swimming pool; 10' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 19 Staubitz Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 50 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

Christopher Sheehan appeared and testified.

The following documents were presented:

1. A copy of the survey of the property with the proposed pool drawn on it.
2. A letter in support of the application signed by neighbors at 15 Staubitz Alfred Hoag, 25 Staubitz, Loren Joey, and 59 S. Reld, Phillip Lane, dated 6/22/2020

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 Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was absent.

Christopher Sheehan testified that he would like to install a small above-ground pool in his back yard; that the yard is narrow and the elevations go up about 20' and the proposed area is really the only area that would accommodate the pool; that there is a 6' high white PVC fence existing and there is an updated site plan that shows the addition to the rear of the house.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

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 Mr. Bonomolo 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 Section 5.227 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools have been constructed in the neighborhood.
2. The requested Section 5.227 rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar pools 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 a variance.
4. The requested Section 5.227 rear 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. Similar pools 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 variance.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:35
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.227 rear 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 CLERK'S OFFICE
2020 JUL 21 A 9:35
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Section 5.227 rear yard variance is APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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-Dom. M.

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

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2020 JUL 21 A 9:34
TOWN OF ORANGETOWN

DECISION

REAR YARD VARIANCE APPROVED

To: Maria Santini
2 Union Street
Sparkill, New York 10976

ZBA #20-48
Date: July 15, 2020
Permit #40143

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-48: Application of Roost at 2 Union for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, CS District, Group FF, Section 3.12, Column 11 (Rear Yard: 252.3' granted in ZBA#19-91, 9" proposed) for a walk-in cooler at an existing restaurant. The restaurant is located at 2 Union Street, Sparkill, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 16 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

Maria Santini appeared and testified.

The following documents were presented:

1. Plans labeled "2 Union Street Sparkill" dated July 26, 2019 with the latest revision date of June 8, 2020 signed and sealed by Kier B. Levesque, Architect. (1 page).
2. ZBA Decision #19-91 dated October 2, 2019.
3. An e-mail from Patricia Carney, New Street, Sparkill, NY, expressing concerns about the application dated July 15, 2020.

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, based on the testimony heard by this Board, and the facts as presented in the application, submissions and in the record, since this application seeks area or bulk variances for the construction or expansion of a primary or accessory or appurtenant, non-residential structure or facility involving less than 4,000 sq. ft. of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls but not radio communications or microwave transmission facilities, 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) and/or (16); which does not require SEQRA environmental review. The motion was seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Quinn was absent.

Maria Santini testified that they needed to move the walk-in cooler in order to accommodate the doorway; that the property in this area is not big and this is the only place that works; that the kitchen is small and they need the extra walk-in cooler in order to accommodate the customers; that they are having the garbage picked up twice a week presently and if business picks up as they are permitted more seating they will increase the pickup days; that they are going to keep

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:34
TOWN OF ORANGETOWN

the recycling inside the restaurant until the next day and will bring it out during the day; that the fence existed when they moved into the space; and that the pod will be removed as soon as they have permission to install the walk-in in this location; that the exhaust fans must run according the health department requirements; and that they have signs out encouraging patrons to park at the Depot; that there is not enough space to plant any bushes between the fence and the walk-in; that the walk-in is 8' x 10' and it is 7' 6" high; and that they will maintain the fence; and that they are going to lease 25 parking spaces from the Church, which should help with the parking.

Public Comment:

Brian Carney, 6 New Street, Sparkill, NY, testified that he is opposed to the restaurant and the walk-in; that the bank was a quiet a neighbor; that the noise from the fridge and the exhaust fans are intrusive; that the pod is ugly from his back yard and he is opposed to the location of the walk-in and questioned the height of it.

Alex Carney, 6 New Street, Sparkill, NY testified that she can see the back yard of the restaurant from her backyard; she can smell the garbage; that she can see the POD in the rear yard of the restaurant; and that she is worried about rodents.

Dan Sullivan stated that the walk-in will be more concealed where it is being moved and the Town has a noise ordinance that the applicant must meet for the exhaust fans.

Patricia Carney, 2 New Street Sparkill, NY, testified that the garbage smells from the sidewalk; that it smells like decomposing fish; that cars are parking on New Street for the restaurant; that the noise level of the recycling at night is horrible and asked if the exhaust fans could have a quieting mechanism added to them.

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 Mr. Bonomolo and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The walk-in box is being moved further back away from the street and is concealed by the existing fence, which the applicant has agreed to maintain.
2. The concerns from the neighbors regarding the recycling and garbage smells have been addressed. It was also noted by the Board that the applicants must meet the noise regulations for the Town of Orangetown concerning the exhaust fans.

TOWN CLERK'S OFFICE

2020 JUL 21 A 9:34

TOWN OF ORANGETOWN

3. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The walk-in box is being moved further back away from the street and is concealed by the existing fence, which the applicant has agreed to maintain.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested rear yard variance although 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 walk-in box is being moved further back away from the street and is concealed by the existing fence, which the applicant has agreed to maintain.
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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested rear yard variance is APPROVED with the Specific Condition that the applicant maintain the existing fence or replace it on the property line if the existing fence cannot be maintained;; 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.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:34
TOWN CLERK'S OFFICE

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

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

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED with the Specific Condition that the applicant maintain the existing fence or replace it on the property line if the existing fence cannot be maintained; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:34
TOWN OF ORANGETOWN

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED AS MODIFIED (17' 11 ½" SIDE YARD & 44' 5 ½" TOTAL SIDE YARD)

To: Louise Male (Rogers)
15 Tyler Place
West Nyack, New York 10994

ZBA #20-49
Date: July 15, 2020
Permit #48591

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-49: Application of Richard and Michele Rogers for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Columns 9 (Side Yard 20' required, 9'8" previously approved, 14'9" proposed: revised proposal 17' 11 ½") and 10 (Total Side Yard: 50' required, 34'8" previously approved, 41'3" proposed: revised proposal 44' 5 ½") for an amendment to a previously approved plan (ZBA#19-59 dated June 19, 2019) for an addition to an existing single-family residence. The premises are located at 50 Cara Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.06, Block 2, Lot 13 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

Richard and Michele Rogers and Louise Male, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Renovations & Additions Rogers Residence" dated February 22, 2019 with the latest revision date of June 6, 2020 signed and sealed by Louise Male, Architect. (10 pages)= latest plans submitted with a smaller addition revised on July 9, 2020.
2. Zoning Board Decision #19-59 dated June 19, 2019.

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; and Ms. Castelli, aye.

Michele Rogers testified that they purchased the house 15 years ago and since then they have added their children to the family; that their architect has worked diligently with them to take the existing carport and turn it into a garage for the minivan and to store some of the kids bicycles in it; that they need an additional bedroom and some more living space; and that the property is small and slopes in the rear and side.

Richard Rogers testified that they started to get prices on the original revised plans and realized that those estimates were outside their budget and Louise Male, Architect, revised the plans again to offer them the minimum they need that they can afford.

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:34
TOWN OF ORANGETOWN

Louise Male, Architect, testified that when her clients received estimates for the work that they were originally proposing they realized that it was out of their proposed budget for the project; that because of the prices they have downsized the project and they are proposing a smaller plan.

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 Mr. Bonomolo 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 and total side yard variances as modified (17' 11 ½" side yard & 44' 5 ½" total side yard) 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 side yard and total side yard variances as modified (17' 11 ½" side yard & 44' 5 ½" total side yard) 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 a variance.
4. The requested side yard and total side yard variances as modified (17' 11 ½" side yard & 44' 5 ½" total side yard) are 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. Similar additions have been constructed in the neighborhood.

TOWN CLERK'S OFFICE

2020 JUL 21 A 9 34

TOWN OF ORANGETOWN

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 and total side yard variances as modified (17' 11 1/2" side yard & 44' 5 1/2" total side yard) 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 CLERK'S OFFICE

2020 JUL 21 A 9 34

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and total side yard variances as modified (17' 11 1/2" side yard & 44' 5 1/2" total side yard) are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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
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FILE, ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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2020 JUL 21 A 9:34
TOWN OF ORANGETOWN

DECISION

SECTION 5.153 ACCESSORY STRUCTURE DISTANCE FROM PRIMARY STRUCTURE VARIANCE APPROVED

To: Keith and Megan Lamond
4 Paul Court
Tappan, New York 10983

ZBA #20-50
Date: July 15, 2020
Permit #

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-50: Application of Keith and Megan Lamond for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.153 (Primary Structure Distance from House: 15' required, 10' 4" proposed) proposed) for a Gazebo at an existing single-family residence. The premises are located at 4 Paul Court, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 45 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 15, 2020 at which time the Board made the determination hereinafter set forth.

Keith and Megan Lamond appeared and testified.

The following documents were presented:

1. Plans labeled "Pool Grading Plan for Lamond with the location of the proposed gazebo drawn on it." (1 Page)
2. Computer generated plans for the proposed gazebo 8"x 10" (5 pages).
3. A letter dated June 23, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated July 6, 2020 from the Rockland County Health Department signed by Elizabeth Mello, P.E. Senior Public Health Engineer.
5. A no comment at this time response from the Dyan Rajashingham dated 6/11/2020 Rockland County Drainage Agency.
6. A letter dated July 7, 2020 from the Rockland County Sewer District No 1 signed by Joseph LaFiandra, Engineer II.
7. Seven letters in support of the application from neighbors: Kelly and Sergio Cavallo, 15 Paul Court, Tappan NY; Patricia Shea 5 Paul Court, Tappan NY; John and Katrina Smith, 9 Carol Lane, Tappan NY; Joseph and Tatiana Crosby, 1 Paul Court, Tappan NY; Steven and Marissa Ruggiero, 16 Paul Court, Tappan NY; Nicole Guarnieri, 3 Carol Lane, Tappan NY; Ned Bertulfo, 24 Paul Court, Tappan NY.
8. One letter of objection from the neighbor in the rear of the house with two pictures from Joe and Casey Huber, 5 Carol Lane, Tappan, NY.
9. A picture of bushes on the Lamond property submitted by Megan Lamond via e-mail.

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 Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Ms. Castelli, aye.

TOWN CLERK'S OFFICE

2020 JUL 21 A 9:34

TOWN OF ORANGETOWN

Keith Lamond testified that he put the footings in the gazebo when the pool was installed and he didn't know that he needed a permit for a gazebo; that he did tell his neighbor that if he was not granted the variance the gazebo would have to be moved closer to his property because he built it too close to his house; that he did not mean that as a threat; that the back is closed in because it has an outdoor fireplace; that it is 18' from the property in the rear and they have owned the house for 12 years and have three children; and that if he has to, he will add screening in the back of the cabana.

Public Comment:

Joe Huber testified that he has lived in his house since 1994 and has never had an objection to improvements made by homeowners; that when the Lamond's installed their pool it cause him to have standing water on his property and he installed a drainage system to correct the problem; that the people in support of the project are not sitting directly behind it; that his kids are all grown and he may consider down-sizing soon and this large structure looks like an eyesore from his house; that he asked his neighbor to install giant arborvitae behind the structure so that they would not have to see it; and that he will ask the Board to please require this if the gazebo is approved.

Casey Huber testified that the structure is large and she agrees with her husband that some giant arborvitae planted directly behind the gazebo would shield them from looking at it.

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 Mr. Bosco and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 5.153 accessory structure distance from primary structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the requested variance keeps the structure further away from the objecting neighbors and the applicant has agreed to install screening between the gazebo and the neighbors' property (5 Carol Lane, Tappan, NY) and to maintain such screening.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:34
TOWN CLERK'S OFFICE

2. The requested Section 5.153 accessory structure distance from primary structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Granting the requested variance keeps the structure further away from the objecting neighbors and the applicant has agreed to install screening between the gazebo and the neighbors' property (5 Carol Lane, Tappan, NY) and to maintain such screening.
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 Section 5.153 accessory structure distance from primary structure 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. Granting the requested variance keeps the structure further away from the objecting neighbors and the applicant has agreed to install screening between the gazebo and the neighbors' property (5 Carol Lane, Tappan, NY) and to maintain such screening.
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 Section 5.153 accessory structure distance to the primary structure variance is APPROVED with the Specific Condition that the applicant install screening between the gazebo and the neighbors' property (5 Carol Lane, Tappan, NY), which will block the view of the gazebo, and to maintain such screening; 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.

TOWN OF ORANGETOWN
2020 JUL 21 A 9:34
TOWN CLERK'S OFFICE

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

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

The foregoing resolution to approve the application for the requested Section 5.153 accessory structure distance to the primary structure variance is APPROVED with the Specific Condition that the applicant install screening between the gazebo and the neighbors' property (5 Carol Lane, Tappan NY), which will block the view of the gazebo, and to maintain such screening; was presented and moved by Ms. Castelli, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn was 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: July 15, 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-Dom.

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

TOWN CLERK'S OFFICE
2020 JUL 21 A 9:34
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