

MINUTES
ZONING BOARD OF APPEALS
July 21, 2021

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
MICHAEL BOSCO
THOMAS QUINN
ROB BONOMOLO, JR
PATRICIA CASTELLI

ABSENT: BILLY VALENTINE

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Katlyn Bettmann, Senior Clerk Typist
Denise Sullivan, Deputy Town Attorney
Anne Marie Ambrose Official Stenographer

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

CONTINUED ITEM:

MARTINEZ DRIVEWAY 29 Merritt Drive Nanuet, New York 68.18/ 1 / 78.1; R-15 zone	CONTINUED	ZBA#21-31
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NEW ITEMS:

SANTILLI 140 Moehring Drive Blauvelt, New York 70.17 / 3 / 57; R-15 zone	ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED	ZBA#21-68
MADERA 116 Lawrence Street Tappan, New York 77.15 / 3 / 23; R-15 zone	CONTINUED	ZBA#21-69
MOROZ 15 Linda Lane Pearl River, New York 73.09 / 1 / 6; R-15 zone	FLOOR AREA RATIO APPROVED	ZBA#21-70

TOWN OF ORANGETOWN
2021 JUL 27 A 9: 22
TOWN CLERK'S OFFICE

COSTA
94 Swanekin Road
Blauvelt, New York
69.20 / 1 / 17; R-15 zone

FRONT YARD AND
TOTAL SIDE YARD VARIANCES
APPROVED

ZBA#21-71

COMITO-BIGHT LANE
455 South Broadway
Upper Grandview, New York
71.05 / 2 / 12.2; RG zone

STREET FRONTAGE,
15 % DRIVEWAY GRADE VARIANCES
APPROVED
N.Y.S. LAW SECTION 280-(a) EXCEPTION
GRANTED

ZBA#21-72

HUDSON CROSSING
100 Crossing Drive
Blauvelt, New York
65.18 / 1 / 16; LI/LIO zone

CONTINUED

ZBA#21-73

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application; 1111 Route 9W, Nyack, NY, 71.05 / 2 / 20; R-22 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

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 9:30 P.M.

Dated: July 21, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN CLERK'S OFFICE
2021 JUL 27 A 9:22
TOWN OF ORANGETOWN

ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED

To: Frank and Susanna Santilli
140 Moehring Drive
Blauvelt, New York 10913

ZBA #21-68
Date: July 21, 2021
Permit #51507

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-68: Application of Frank and Susanna Santilli for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.227, (Accessory Structure side rear yard setback: 5' required, 1' side yard and 3.5' rear yard existing) for an existing shed at an existing single-family residence. The property is located at 140 Moehring Drive, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.17, Block 3, Lot 57 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 21, 2021 at which time the Board made the determination hereinafter set forth.

Susanna Santilli appeared and testified.

The following documents were presented:

1. Plans showing the shed drawn on it prepared by Susanna Santilli dated 5/14/2021.

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

Susanna Santilli testified that she is in the process of re-financing her house and the shed that existed on the property when she purchased the house came up as being in violation; that she would like to keep it where it is and ask for the variances for side and rear yard; that other people in the neighborhood have sheds in their back yards.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2021 JUL 27 A 9:22
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 accessory structure distance variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar sheds have been constructed in the neighborhood.
2. The requested accessory structure distance variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar sheds 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 accessory structure distance 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 sheds 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
2021 JUL 27 A 9:22
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 accessory structure distance 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
2021 JUL 27 A 9:22
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested accessory structure distance variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine 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 21, 2021

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
2021 JUL 27 A 9:22
TOWN CLERK'S OFFICE

FLOOR AREA RATIO VARIANCE APPROVED

To: Jennifer and Michael Moroz
15 Linda Lane
Pearl river, New York 10965

ZBA #21-70
Date: July 21, 2021
Permit #51117

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-70: Application of Michael and Jennifer Moroz for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: .20 permitted, .21 proposed) at an existing single-family residence. The premises are located at 15 Linda Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 73.09, Block 1, Lot 6; 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 21, 2021 at which time the Board made the determination hereinafter set forth.

Michael Moroz, Matthew Pecora, Architect, and Frank Troia, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "The Moroz Residence" dated May 11, 2021 signed and sealed by Matthew Benedict Pecora, Architect. (6 pages).

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

Matthew Pecora, Architect, testified that they are proposing to change the existing undersized garage into living space and to add a two car garage and above the garage they are adding a master suite and that the basement because it is partially above grade counts in the floor area.

Michael Moroz testified that they have owned the house for seven years and there are four people in the family.

Frank Troia, Architect, testified that above the proposed garage will be a master suite and the terrace in the rear yard will have a cover to provide a nice outdoor space and the terrace area conforms with the rear yard setback.

Public Comment:

No public comment.

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

TOWN CLERK'S OFFICE
2021 JUL 27 A 9:23
TOWN OF ORANGETOWN

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

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
2021 JUL 27 A 9:23
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED ; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine 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 21, 2021

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
2021 JUL 27 A 9: 23
TOWN CLERK'S OFFICE

FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Vincent Costa
94 Swannekin Road
Blauvelt, New York 10913

ZBA #21-71
Date: July 21, 2021
Permit #51465

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-71: Application of Vincent and Christine Costa for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 8 (Front Yard: 30' required, 25.5' proposed) and 10 (Total Side Yard: 50' required, 47.8' proposed) for an addition to a single-family residence. The property is located at 94 Swannekin Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 17 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 21, 2021 at which time the Board made the determination hereinafter set forth.

Vincent Costa appeared and testified.

The following documents were presented:

- 1. Plans labeled "Costa Porch" dated May 4, 2021 revised May 12, 2021 signed and sealed by Kier B. Levesque, 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. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine was absent.

Vincent Costa testified that he would like to add a front porch on his house; that he and his wife have a two year and a son on the way and they love being outside; that many of the house in the area have covered porches and they are used a lot; and that they bought the house two years ago and love their neighborhood.

Public Comment:

No public comment.

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

TOWN OF ORANGETOWN
2021 JUL 27 A 9:23
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 front yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
2021 JUL 27 A 9:23
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested front yard and total side yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye.; and Mr. Quinn, aye. Mr. Valentine 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 21, 2021

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
2021 JUL 27 A 9:23
TOWN CLERK'S OFFICE

**STREET FRONTAGE AND 15% DRIVEWAY GRADE VARIANCES APPROVED;
NEW YORK STATE TOWN LAW 280-a EXCEPTION GRANTED**

To: Marc Comito (Comito-Bight)
87 6th Avenue
Nyack, New York
10960

ZBA #21-72
Date: July 21, 2021
Permit #51067

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-72: Application of Comito-Bight Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 7 (Street Frontage: 75' required, 12' proposed), and from Section 6.332 (Driveway Grade: 10% maximum permitted, 25% proposed) and for an exception pursuant to New York State Law Section 280-a (Relation of structure to streets or highways) for the construction of a new single-family residence. The property is located at 455 South Broadway, Grandview, New York and is identified on the Orangetown Tax Map as Section 71.05, Block 2, Lot 12.2 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 21, 2021 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor, appeared and testified.

The following documents were presented:

1. Plans labeled "Comito Homes Bight Lane" dated January 29, 2021 signed and sealed by Kier B. Levesque, Architect. (3 pages).
2. Plot plan for Comito-Bight Lane dated 1/20/2021 signed and sealed by Jay Greenwell, PLS and Paul Gdanski, P.E..
3. Road Profile Comito-Bight Lane dated 05/25/2021 signed and sealed by Jay Greenwell, PLS.
4. A letter dated June 17, 2021 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated June 29, 2021 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A no comment at this time response from the Rockland County Highway Department signed by Dyan Rajasingham dated 06/15/2021.

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 conducted SEQRA reviews and,

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on May 26, 2021 (as set forth in PB#21-32) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA 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. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye. Mr. Valentine was absent.

Jay Greenwell, Land Surveyor, testified that the property is in the RG zone with a gross lot area of 13,866 sq. ft.; that the proposed house complies with all of the set backs and floor area ratio requirements; that it does not have the required street frontage of 75 feet; that the existing private road has a slope of more than 10% and because it is located at the end of a private road it requires an exception from New York State Town Law Section 280-a for access; that Marc Comito is a reputable builder in the county and built many of the houses on Kopac Lane in Palisades; that they are not requesting a variance for 25% sloped driveway; that part of the driveway that is located in Grandview will have a slope of 15% but the majority of the driveway will have a 10% grade; that they have to apply for variance in the Village of Grandview for that variance; that the road exists for a long time; that recently a 5' diameter pipe broke and the Town of Orangetown repaired it; that the sewer and drain pipes run south to Broadway and that the "easement is for all purposes" and he doubts that Grandview would be interested in purchasing the private road; that if damage is done by the construction vehicles during construction it would be the responsibility of Mr. Comito; that these concerns could be addressed at the Planning board and notes could be added to the plan.

Public Comment:

James Walsh, 47 Tallman Avenue, Nyack, NY testified that his father-in-law Patrick Geraghty., owns the easement and property closest to the proposed new house; that he is not against the development of the new house; that he has concerns about the roadway and the retaining wall holding the road in place; that there is a crack in the retaining wall already; that heavy construction vehicles could further compromise it; that the 5' pipe broke three weeks ago and Orangetown did just fix it; that he is concerned for his father-in-law and questioned what is allowed under the easement; and that he would like to see the easement sold to Grandview.

Dan Sullivan, Chairman, advised the concerned neighbor to express these concerns at the next Planning Board meeting.

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.

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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 street frontage and 15% driveway grade variances and exception from New York State Town Law Section 280-a will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other houses constructed in the neighborhood have needed variances from street frontage and exceptions from NYS Town Law section 280-a; therefore granting these particular variances is in keeping with the character of the neighborhood.
2. The requested street frontage and 15% driveway grade variances and exception from New York State Town Law Section 280-a will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses constructed in the neighborhood have needed variances from street frontage and exceptions from NYS Town Law section 280-a; therefore granting these particular variances is in keeping with the character of 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 street frontage and 15% driveway grade variances and exception from New York State Town Law Section 280-a 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. Other houses constructed in the neighborhood have needed variances from street frontage and exceptions from NYS Town Law section 280-a; therefore granting these particular variances is in keeping with the character of 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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested street frontage and 15% driveway grade variances and exception from New York State Town Law Section 280-a are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested street frontage and 15% driveway grade variances and exception from New York State Town Law Section 280-a are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine 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 21, 2021

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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