

MINUTES
ZONING BOARD OF APPEALS
October 20, 2021

MEMBERS PRESENT:

MICHAEL BOSCO
THOMAS QUINN
ROB BONOMOLO, JR
BILLY VALENTINE
PATRICIA CASTELLI, ACTING CHAIR

ABSENT:

DAN SULLIVAN, CHAIRMAN

ALSO PRESENT:

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 Ms. Castelli, Acting Chair.
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
29 Merritt Drive
Nanuet, New York
64.18 / 1 / 78.1; R-15 zone

CONTINUED

ZBA#21-31

NEW ITEMS:

CROSBY
23 Closter Road
Palisades, New York
78.17 / 2 / 24; R-40 zone

POSTPONED

ZBA#21-89

MUNDY
36 Pine Glen Drive
Blauvelt, New York
65.19 / 1 / 37; R-40 zone

SECOND KITCHEN PERMITTED
WITH NO INTERIOR SEPARATION
BETWEEN LIVING SPACES
SECTION 4.58 VARIANCES NOT REQUIRED

ZBA#21-90

LYKOKAS
11 Tweed Boulevard
Upper Grandview, New York
71.09 / 1 / 52; R-22 zone

CONTINUED

ZBA#21-91

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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application; Suez PFAS Compliance Project B-Tappan Wells #16 Site Plan, 119 Washington Avenue, Tappan, NY 77.06/2/77 R-15 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 9:00 P.M.

Dated: October 20, 2021

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

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SECOND KITCHEN ACKNOWLEDGED IN EXISTING SINGLE-FAMILY RESIDENCE: NO SEPARATION BETWEEN LIVING SPACES: SECTION 4.5 VARIANCES NOT NECESSARY

To: Adam Kurland (Mundy)
377 N. Main Street Suite 11
New City, New York 10956

ZBA #21-90
Date: October 20, 2021
Permit # 51179

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-90: Application of Edward Mundy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Section 4.5 subsection 4.58 (Owner who first converts must have resided in dwelling for at least 15 years, one year proposed) and from Section 3.11, R-80 District, Column 2, # 7 (Additional dwelling unit not occupy more than 600 s. f., 1018 s. f. proposed) for an exception to Local Law #7 at an existing single-family dwelling. The church is located at 36 Pine Glen Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.19, Block 1, Lot 37; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 20, 2021 at which time the Board made the determination hereinafter set forth.

Ed Mundy, Charlotte Mundy; Adam Kurland, Attorney, and Bart Rodi, Engineer, appeared and testified.

The following documents were presented:

1. Plans labeled "Basement Floor Plan" for the "Mundy Residence" dated February 10, 2021 with the latest revision date of March 23, 2021 signed and sealed by Bart M. Rodi – Engineer. (1 page)
2. A narrative letter dated July 8, 2021 signed by Adam K. Kurland, Attorney at Law, P.C.
3. A letter dated September 13, 2021 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 27, 2021 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
5. A sign off sheet dated 08/03/2021 from Dyan Rajasingham, PE. Rockland County Highway Department.
6. A sign off sheet dated 08/23/2021 from Liz Mello Senior Public Health Engineer, Rockland County Health Department.
7. Cell phone pictures from the time of purchase, on Mr. Mundy's phone (pictures not submitted for record.)
8. An email from George Faye of 38 Pine Glen (neighbor), send to Adam Kurland, in support.

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

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 accepted by Ms. Castelli seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan were absent.

Adam Kurland, Attorney, testified that the applicants reside in R-40 zone, with 9/10 of an acre of property; that they are here in front of the board, seeking two variances; that they need a bulk variance for the size of the proposed accessory apartment in the basement, maximum 600sf with 1,018 sf proposed; and a variance for not residing in the house for 15 years; that they closed on the home January 8, 2021; that his client purchased the home under the assumption that this was an existing (2) family dwelling, or that it was legal, or permissible, for residing in the basement; that Mr. Mundy and his Mother (Charlotte) sold their own homes to purchase this new home for them to share; that during the violation search, they learned that the living area for his mom was not legal; that Charlotte Mundy would like to reside in the downstairs of the home, in the existing 1,018 SF, which already exists; that they would like to live independently with respect to each other spaces; that there will be no undesirable changes, and no impact on the environment; that there is no door at the downstairs, but there is one upstairs creating separation, but it is not needed.

Mr. Kurland read aloud an email sent to him by George Faye of 38 Pine Glen Drive(neighbor) which stated that he sees no reason for the approval for this project to be given. Mr. Kurland will forward this email to the Senior Clerk Typist, so submit for the record.

Adam Kurland also stated, that the board had previously rendered a decision on a case almost identical to this one.

Bart Rodi, Engineer, testified that the floor plan is for an existing finished basement; that the previous owners legalized this by calling it a "finished storage area" in order to sell the home; that the previous owner removed the existing stove, so that it did not meet the classification in which they are currently requesting the variance for; that the previous owner lived there for 15 years, but did it this way to "just get it done"; that the proposed scope of work is to take down a wall, and insulation, electrical work, CO and smoke detectors; that there are (2) egress windows, and an exit door, a (2) car garage, and a 5 or 6 car driveway; and that parking will be of no concern.

Edward Mundy, owner, testified that previous owner resided in the home for many years; that he has resided and been a Fireman in Tappan for (19) years, and has resided in Blauvelt for less than (1) year; that he and his Mother (Charlotte) both sold their homes; that they were not aware of any violation until it came up in the title search; that he is here to correct the issue and have his mother reside with him safely and legally; that they are part of the same family, and would like to live in the same dwelling, with respect to each other's living spaces; that his Mom can gain access from the upstairs, and also has her own exit out the back door (off the kitchen).

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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 Section 3.11, Column 2 #7, Section 4.5 and section 4.52 are not necessary, the applicant testified that there are two kitchens in the existing single-family residence and that his Mother lives on the lower level of the bi-level style home; that there is an existing lower level entrance to the area of the house that his Mother occupies, however there will be no interior separation of the spaces. The area in which the Mother occupies is part of the single-family residence and they do not have a separate apartment.
2. The single-family home has two kitchens and Charlotte Mundy occupies the lower portion of the house, there will be no interior separation of the spaces. The area in which the Mother occupies is part of the single-family residence and they do not have a separate apartment.
3. The benefits sought by the applicant have been achieved by other means feasible for the applicant to pursue and it is no longer required to obtain a variance.
4. The requested Section 3.11, Column 2 #7, Section 4.5 and section 4.52 are not necessary, the applicant testified that there are two kitchens in the existing single-family residence and that his Mother lives on the lower level of the Bi-Level style home; that there is an existing lower level entrance to the area of the house that his Mother occupies, however there is no interior separation of the spaces. The area in which the Mother occupies is part of the single-family residence and they do not have a separate apartment.
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 requested Section 3.11, Column 2 #7, Section 4.5 and section 4.52 variances are not necessary since the area of the house with a second kitchen is not separated in the interior of the house by any walls or doors which would make it a separate apartment, therefore there is no need for a covenant and the two filed covenants shall be withdrawn; 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 Section 4.5 variances are NOT NECESSARY because there is no interior physical separation between the living spaces and the second kitchen is acknowledged as part of the existing single-family residence; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn; aye and Mr. Valentine; aye. Mr. Sullivan 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: October 20, 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.

CHAIRMAN

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