

MINUTES
ZONING BOARD OF APPEALS
December 1, 2021

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

ABSENT: THOMAS QUINN

ALSO PRESENT: Deborah Arbolino, Administrative Aide
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

POSTPONED ITEM:

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

CONTINUED

ZBA#21-89

NEW ITEMS:

BUREWALL-KELSTON
22 Shadyside Avenue
Nyack, New York
66.17 / 2 / 23; RG zone

FLOOR AREA RATIO, FRONT
YARD, SIDE YARD, VARIANCES
APPROVED: PRE-EXISTING NON-
CONFORMING CONDITIONS
ACKNOWLEDGED

ZBA#21-98

SHEERAN
322 East Central Avenue
Pearl River, New York
69.13 / 3 / 12; R-15 zone

FRONT YARD VARIANCE
APPROVED

ZBA#21-99

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

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: 500 North Middletown Road Site Plan, 500 North Middletown Road, Pearl River, NY 64.17 / 3 / 1; CO zone; 58 Tweed Boulevard Site Plan, 59 Tweed Boulevard, Upper Grandview, NY 71.13 / 1 / 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 8:15 P.M.

Dated: December 1, 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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**FLOOR AREA RATIO, FRONT YARD, AND SIDE YARD VARIANCE APPROVED;
UNDERSIZED LOT ACKNOWLEDGED WITH PRE-EXISTING NON-CONFORMING
SIDE YARD. TOTAL SIDE YARD, LOT AREA AND LOT WIDTH**

To: Marie Burewall & Henry Kelston
22 Shadyside Avenue
Nyack, New York 10960

ZBA #21-98
Date: December 1, 2021
Permit #51929

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-98: Application of Henry Kelston and Marie Burewall for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .31 proposed), 8 (Front Yard: 25' required, 14.75' proposed) and 9 (Side Yard: 10' required, 1' proposed) (pre-existing non-conforming side yard, total side yard, lot area and lot width exist) for an addition to an existing single-family residence. The premises are located at 22 Shadyside Avenue, Nyack, New York and is identified on the Orangetown Tax Map as Section 66.17, Block 2, Lot 23 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 1, 2021 at which time the Board made the determination hereinafter set forth.

Henry Kelston and Marie Burewall appeared and testified.

The following documents were presented:

1. Plans labeled "Burewall/Kelston" dated September 14, 2021 signed and sealed by Kier B. Levesque, Architect. (3 pages).
2. Copy of survey dated May 7, 2021 signed and sealed by Robert Sorace, PLS.
3. A letter dated November 22, 2021 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated November 9, 2021 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
5. A letter dated November 24, 2021 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.

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.

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Henry Kelston testified that they love their little two story house, however they only have one bathroom and it is upstairs; that they are proposing to add a small bathroom/powder room on the first floor of the house; that the confusion with the side yard is the closest the house is to wall is one (1") inch and the property to the west goes further out and allows more space; that the neighbor to the north has seen the plans and is in support of the proposal; that the addition will be unobtrusive from the street because of the change in elevation of the property; that the neighbors to the south have a carport that is closer to the front property line; that the proposal does not intrude on any site lines; and because of the retaining wall and interior plumbing in the house, this really is the most logical and economical place to add the small bathroom.

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. Valentine 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, front yard, and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot, and the pre-existing non-conforming side yard, total side yard, lot area and lot width variances and noted that similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot, and the pre-existing non-conforming side yard, total side yard, lot area and lot width variances and noted that 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 variances.

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4. The requested floor area ratio, front yard, and side yard variances 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 Board acknowledged the undersized lot, and the pre-existing non-conforming side yard, total side yard, lot area and lot width and noted that 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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio, front yard and side yard variances are APPROVED; and FURTHER RESOLVED that the undersized lot, pre-existing non-conforming side yard, total side yard, lot area and lot width variances are acknowledged; 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.

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(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 floor area ratio, front yard and side yard variances are APPROVED and the undersized lot, pre-existing non-conforming side yard, total side yard, lot area and lot width variances are acknowledged; was presented and moved by Mr. Sullivan, 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.

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: December 1, 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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FRONT YARD VARIANCE APPROVED

To: Robert Silarski (Sheeran)
41A North Broadway
Nyack, New York 10960

ZBA #21-99
Date: December 1, 2021
Permit #52031

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-99: Application of Daniel and Erin Sheeran for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 8 (Front Yard: 30' required, 23.2' proposed) for an addition to an existing single-family residence. The property is located at 322 East Central Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.13, Block 3, Lot 12 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 1, 2021 at which time the Board made the determination hereinafter set forth.

Robert Silarski, Architect, and Daniel Sheeran appeared and testified.

The following documents were presented:

1. Plans labeled "Façade Renovations@ The Sheeran Residence" dated September 22, 2021 not signed or sealed by Robert Silarski, Architect. (2 pages).
2. A copy of the survey for lot #26 Mountainview, Pearl River dated September 20, 1960 by Barbour & Jost Surveyors.

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.

Robert Silarski, Architect, testified that the house is a simple center hall colonial style house; that they are proposing to add a portico over the front door that will project eight feet out; that the property is flat and similar to other properties in the area; that the portico will cover the existing walkway with the existing planting beds on the outside of it; and that the proposal is similar to the house across the street.

Public Comment:

No public comment.

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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 front yard 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 front yard 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 front yard variance although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. 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.

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

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested front yard variance is APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, 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: December 1, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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