

MINUTES
ZONING BOARD OF APPEALS
January 5, 2022

MEMBERS PRESENT: PATRICIA CASTELLI, ACTING CHAIR
MICHAEL BOSCO
ROB BONOMOLO, JR.
THOMAS QUINN
BILLY VALENTINE

ABSENT: DAN SULLIVAN, CHAIRMAN

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Dennis Michaels, 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:

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

FLOOR AREA RATIO, ZBA#21-89
FRONT YARD, SIDE YARD
TOTAL SIDE YARD AND
BUILDING HEIGHT VARIANCES APPROVED

POSTPONED ITEM:

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

CONTINUED TO JANUARY ZBA#21-91
19, 2022

NEW ITEMS:

WOROB
235 Sickletown Road
Orangeburg, New York
69.08 / 1 / 28; R-40 zone

SIDE YARD VARIANCE ZBA#22-01
APPROVED: BOARD DETERMINED
WEST AND EAST ARE SIDE YARDS;
SOUTH IS REAR AND NORTHEAST IS FRONT YARD

SCOGNAMIGLIO
21 Warrant Officer Bauer Lane
Orangeburg, New York
64.20 / 1 / 20; R-40 zone

SECTION 5.153 ACCESSORY ZBA#22-02
STRUCTURE DISTANCE FROM
PRIMARY STRUCTURE
APPROVED

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GORMAN
91 Sickletown Road
Orangeburg, New York
69.15 / 1 / 2; R-40 zone

CONTINUED

ZBA#22-03

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: Xristos & Ryan Site Plan-Quinlan Subdivision, 8 Center Street, Pearl River, NY 68.19 / 2 / 36; RG zone; Rockland Gaelic Athletic Association Retaining Wall Site Plan, 160 Old Orangeburg Road, Orangeburg, NY 73.12 / 1 / 1; RPC_R zoning district; The Reserve at Pearl River Site Plan, Blue Hill Plaza, Veterans Memorial Drive, Pearl River, 73.10 / 1 / 6; OP/PAC zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

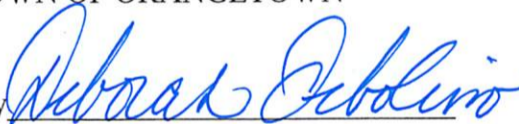
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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: January 5, 2022

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

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16.7% FLOOR AREA RATIO, 21.2' FRONT YARD, 11.17', 13.67', & 5.9' SIDE YARD, 17.3' TOTAL SIDE YARD, AND 24'6" BUILDING HEIGHT VARIANCES APPROVED; UNDERSIZED LOT ACKNOWLEDGED

To: William Pfaff (Crosby)
208 Foss Drive
Upper Nyack, New York 10960

ZBA #21-89
Date: October 20, 2021, December 1, 2021
and January 5, 2022 Permit #51563

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-89: Application of Jennifer Crosby for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Columns 8 (Front Yard: (50' required, 21.2' proposed to new covered entrance steps), 9 (Side Yard: 20' required, 11.17' proposed to new entrance vestibule and 6.26' to new basement bulkhead door) 10 (Total Side Yard: 40' required, 11.15' proposed) and (Section 5.12(a) & (e) Undersized Lot Applies Building Height: 20' permitted, 24' existing) for an addition to an existing single-family residence. The property is located at 23 Closter Road, Palisades, New York and is identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 24 in the R-40 zoning district.

The applicant did not attend the October 20, 2021 hearing for health reasons and the item was postponed to the December 1, 2021 hearing date.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, December 1, 2021 and January 5, 2022 at which time the Board made the determination hereinafter set forth.

William Pfaff, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Renovations to The Crosby Residence" dated May 26, 2021 with the latest revision date of June 8, 2021 signed and sealed by William E. Pfaff, Architect. (1 pages).
2. Copy of survey.
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 August 23, 2021 from Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
5. A letter dated September 27, 2021 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated August 2, 2021 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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

At the December 1, 2021 hearing William Pfaff, Architect testified that the required front yard is 50' and they are proposing a 21.2' front yard for the new entry; that the required side yard is 20' and the proposal is for 11.17' and 6.6' and the total side yard proposed is 11.15' that the lot is an

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existing undersized lot in the R-40 zone and is located in the historic district; that the bilco doors are proposed to allow a more direct access to the basement; that presently the basement access is through a closet with steep steps down into it; that the basement is not living space; that the ceiling height is under seven feet and it has a dirt floor but all of the utilities are on the back wall of the basement; that the plans that he has have been revised and are not the same plans that the Board has; that he would like to request a continuance and talk to the client about moving the bulkhead and about additional parking on site.

Public Comment:

Diane Donnelly, 25 Closter Road, Palisades, submitted pictures of the applicants property and the ingress/ egress easement on her property to the Board; and she testified that she has concerns regarding the installation of the Bilco doors with only a six foot side yard to her property; that the easement is on that side of the Crosby house and the required side yard should be 20'; that she only has a 15' side yard and the Crosby property has a 12' side yard; that the previous owners subdivided the property and at that time the easement for ingress/egress was created and it is 10' wide and 70' long; that the Crosby property only has one parking space and they often park on the easement which is not permitted; that she is afraid that if the bilco doors are installed in that area they will not be able to access the one and only parking space and will block the easement; that she would request that the bilco doors be moved and that the applicant add more parking to their property; and that she is planning on adding a fence to her property.

The Board requested that the applicant correct the floor area ratio, address the location of the proposed bilco doors and investigate adding additional parking to the site.

REVISED TO REFLECT REVISED PLANS

ZBA#21-89: Application of Jennifer Crosby for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Columns 4 (Floor Area Ratio: 15% permitted, 16.7% proposed), 8 (Front Yard: (50' required, 21.2' proposed to new covered entrance steps), 9 (Side Yard: 20' required, 11.17' proposed to new entrance vestibule, 13.67' to north side new entrance stair and 5.9' to new basement bulkhead door) 10 (Total Side Yard: 40' required, 17.3' proposed) and (Section 5.12(a) & (e) Undersized Lot Applies Building Height: 20' permitted, 24'6" existing) for an addition to an existing single-family residence. The property is located at 23 Closter Road, Palisades, New York and is identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 24 in the R-40 zoning district.

The following items were submitted for review for the January 5, 2022 hearing:

1. Plans labeled "Renovations to The Crosby Residence" dated May 26, 2021 with the latest revision date of December 8, 2021 signed and sealed by William E. Pfaff, Architect. (1 pages).
2. Copy of survey.

At the January 5, 2021 hearing William Pfaff, Architect, appeared.

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William Pfaff, Architect, testified that the revised plans are in answer to the concerns that were raised at the last meeting; that the increase in floor area ratio has been addressed and added to the bulk table; that the bilco door has been relocated and moved away from the existing parking on site; that the building height is 24'6" and is not changing; that the existing parking is not being reduced or increased; that he will agree to comply with the conditions of the letter dated September 13, 2021 from Rockland County Department of Planning.

Public Comment:

Diane Donnelly, 25 Closter Road, Palisades, stated that there is still only parking for one car on the lot; that instead of decking in the rear of the house, they should add parking to avoid parking on the easement; that it would be easier to do that now than to have to call the police for the easement being blocked.

The Board sympathized with the neighbor, but because the situation is not being made worse, they could not force the applicant to add parking.

On advice of Dennis Michaels, 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 seconded by Mr. Valentine and carried as follows: Mr. Bonomolo, aye; Mr. Valentine ; and Ms. Castelli, aye. Mr. Sullivan, Mr. Bosco and Mr. Quinn were absent.

The Board members made personal inspections of the premises the week before each 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.

Ms. Castelli 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, side yard, total side yard and building height variances as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood.

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2. The requested floor area ratio, front yard, side yard, total side yard and building height variances as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood.
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 floor area ratio, front yard, side yard, total side yard and building height variances as modified although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot 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, side yard, total side yard, and building height variances are APPROVED; and the Undersized lot is 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.

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(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 16.7% floor area ratio, 21.2' front yard, 11.17', 13.67' & 5.9' side yards, 17.3' total side yard and 24' 6" building height variances are 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. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn, Mr. Sullivan and Mr. Bosco were 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: January 5, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-G.M.

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

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REFERRED FOR REAR YARD VARIANCE FOR SHED: BOARD DETERMINED THAT A SIDE YARD VARIANCE WAS REQUIRED AND APPROVED 0' SIDE YARD FOR THE WEST SIDE OF PROPERTY

To: Jason and Michelle Worob
235 Sickletown Road
Orangeburg, New York

ZBA #22-01
Date: January 5, 2022
Permit # 52079

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-01: Application of Jason and Michelle Worob for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Column 11 (Rear Yard: 50' required, 0' existing & proposed to a shed): **Board Determined that a side yard was required from Column 9 : 30' required, 0' existing**) at an existing single-family residence. The property is located at 235 Sickletown Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.08, Block 1, Lot 28 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 5, 2022 at which time the Board made the determination hereinafter set forth.

Karl Ackermann, Architect, and Jason and Michelle Worob appeared and testified.

The following documents were presented:

1. Site plan dated October 18, 2021 signed by Michelle Worob and prepared by Michelle Worob. (1 page)
2. A letter dated December 16, 2021 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated December 21, 2021 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A sign off from Rockland County Highway Department dated 11/16/21 and a sign off from Rockland County Health Department dated 12/23/ 21

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

On advice of Dennis Michaels , 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 seconded by Mr. Valentine and carried as follows: Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Valentine; aye. Mr. Sullivan, Mr. Quinn and Mr. Bosco were absent.

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Karl Ackermann, Architect, testified that his clients purchased the house a year ago without incident and recently were put in violation for the existing shed; that the shed is 2 or three inches from the fence that belongs to the Palisades Parkway, but it was there when they purchased the house; that they would like to legalize it now ; that the building inspector determined that the shed was in the rear yard; that he asked that it be determined as a side yard; but was told that it was a rear yard; that the deck on the rear of the house would no meet the rear yard setback in the district and no variance exists for it and it does meet the side yard requirements for the zone; and the other existing shed is about 144 sq. ft. and does not require a permit and therefore does not need to be reviewed by the Board; and he thanked the Board for their determination; and agreed to comply with all the requirements of the December 16, 2021 letter from the Rockland County Planning Department.

After closely looking at the site plan, the Board agreed with the applicant that the shed is in the side yard; based on the location of the deck and the fact that the existing deck did not require a variance; which it would have if the west side of the property was determined to be the rear yard; therefore it was determined that the west and east side of the property are side yards and the point in the south of the property is the rear yard; that the northeast side of the property abutting Sickletown Road is the front yard. The Board also acknowledged the 14'.3" x 10' 6" shed would not required a variance because it would not require a building permit because it is 144 sq. ft..

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.

Ms. Castelli 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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The side yard of this property abuts the Palisades Interstate Parkway and the shed being on the property line does not intrude on the use of other privately owned lands; there is also a large area of greenery between this property and the parkway.
2. The shed on the west side of the property is in the side yard; based on the location of the deck and the fact that the existing deck did not require a variance; which it would have if the

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west side of the property was determined to be the rear yard; therefore it was determined that the west and east side of the property are side yards and the point in the south of the property is the rear yard; that the northeast side of the property abutting Sickletown Road is the front yard. The Board also acknowledged the 14' 3" x 10' 6" shed would not required a variance because it would not require a building permit because it is 144 sq. ft..

3. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The side yard of this property abuts the Palisades Interstate Parkway and the shed being on the property line does not intrude on the use of other privately owned lands; there is also a large area of greenery between this property and the parkway.
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 side 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 side yard of this property abuts the Palisades Interstate Parkway and the shed being on the property line does not intrude on the use of other privately owned lands; there is also a large area of greenery between this property and the parkway.
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 **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.

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(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 **changed to side yard by Board determination is APPROVED**; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Sullivan, Mr. Quinn and Mr. Valentine were 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: January 5, 2022

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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**ACCESSORY STRUCTURE DISTANCE TO PRIMARY STRUCTURE VARIANCE
APPROVED**

To: Allyson Scognamiglio
2 Warrant Officer Bauer Lane
Orangeburg, New York 10962

ZBA #22-02
Date: January 5, 2022
Permit #51398

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-02: Application of Joseph and Allyson Scognamiglio for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 5.153 (Accessory Structure Distance from primary structure: 15' required, 1'1" existing) between pavilion and existing single-family residence. The premises are located at 21 Warrant Officer Bauer Lane, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 64.20, Block 1, Lot 20 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 5, 2022 at which time the Board made the determination hereinafter set forth.

Allyson Scognamiglio appeared and testified.

The following documents were presented:

1. Plans with the gazebo drawn on them dated June 2, 2021 signed by John McCullough, based on a survey by Robert Rahnefeld dated 3/25/1997. (1 Page)
2. A letter dated December 16, 2021 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated December 21, 2021 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A sign off from Rockland County Health Department dated 12/23/21 and from Rockland County Highway Department dated 11/24/21.

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

On advice of Dennis Michaels, 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 seconded by Mr. Bonomolo and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn, Mr. Valentine and Mr. Sullivan were absent.

Allyson Scognamiglio testified that the pavilion in the rear of the house was built about ten years ago; that it is too close to the house and that is why she is before the board; that it is an open air structure and not visible to any other neighbors and she would like to legalize it and keep it in its present location.

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Public Comment:

No public comment.

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

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

Ms. Castelli 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 distance to primary structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The structure is an open air structure that is not visible to other properties.
2. The requested accessory distance to primary structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The structure is an open air structure that is not visible to other properties.
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 to primary structure variance although very 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 structure is an open air structure that is not visible to other properties.
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
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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 to primary structure 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.

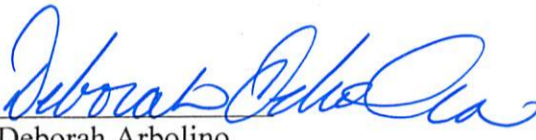
TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested accessory structure distance to primary structure variance is APPROVED; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn, Mr. Sullivan and Mr. Bosco were 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: January 5, 2022

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 CLERK'S OFFICE
2022 JAN 12 A 9:40
TOWN OF ORANGETOWN