

MINUTES
ZONING BOARD OF APPEALS
February 16, 2022

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

ABSENT: NONE

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Katlyn Bettmann, Senior
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:

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

SIDE YARD VARIANCE ZBA#22-03
FOR GOLF SIMULATOR WITHDRAWN
BY APPLICANT: SIDE YARD FOR PERGOLA
APPROVED AS PRESENTED

SCHMITT-GRONEK
350 Middletown Road
Pearl River, New York
73.09 / 1 / 11; R-15 zone

BOARD DETERMINED THAT A ZBA#21-92
USE VARIANCE WAS NOT REQUIRED:
RE-SCHEDULED FOR A VARIANCE FROM
SECTION 5.153

NEW ITEMS:

JACOB
22 Marycrest Road
West Nyack, New York
69.07 / 1 / 37; R-22 zone

FRONT YARD VARIANCE ZBA#22-10
APPROVED

ALEXANDER
16 Pine Glen Drive
Blauvelt, New York
65.19 / 1 / 48; R-40 zone

SIDE YARD VARIANCE ZBA#22-11
APPROVED

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

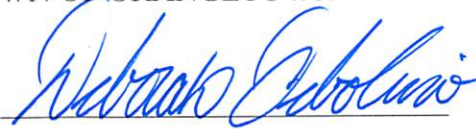
The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:45 P.M.

Dated: February 16, 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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**SIDE YARD VARIANCE FOR PERGOLA APPROVED
SIDE YARD REQUEST FOR GOLF SIMULATOR WITHDRAWN BY APPLICANT**

To: Tom and Laura Gorman
91 Sickletown Road
Orangeburg, New York 10962

ZBA #22-03
Date: January 5, 2022 & February 16, 2022
Permit #52028

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-03: Application of Tom and Laura Gorman for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 5.127 (Accessory Structure distance from primary building: 15' required, 10' proposed) and from Section 5.227 (Side Yard for accessory structures: 30' required, 27.4' proposed for golf simulator and 18.2' for Pergola) at an existing single-family residence. The property is located at 91 Sickletown Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.15, Block 1, Lot 2 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.

At the January 5, 2022 hearing Maureen Nicolich, Designers' employee, appeared and testified.

The following documents were presented:

1. Plans dated December 6, 2019 by CSE Land Surveying labeled "Briarwood Heights".
2. Plan labeled Gorman Residence Construction Details dated 10/21/2021 by Steve Griggs Design (not signed or sealed).(page 2)
3. Plans labeled Gorman Residence Construction Details page 1 of 1 dated 9/29/2021 by Steve Griggs Design not signed or sealed.
4. Spa Plan for Gorman dated September 22, 2021 signed and sealed by Paul Gdanski, P.E., PLLC.
5. Plot plan for Gorman dated September 20, 2021 signed and sealed by Paul Gdanski, P.E., PLLC.
6. A letter dated December 21, 2021 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A letter dated December 23, 2021 from Rockland County Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
8. A letter dated December 21, 2021 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.

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

At the January 5, 2022 hearing Maureen Nicolich, employee of the applicant's designer, testified that she was told that the publication is deficient; that they also need a total side yard; that she doesn't know how long the Gorman family owns the house; that she does not know what a golf simulator is; that she is filling in last minute; that she would like a continuance to see if the Gorman's would like to make any changes to accommodate the neighbors.

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Public Comment at the January 5, 2022 Hearing:

Jessica Zhang, 6 Briarwood Lane, Orangeburg, NY, testified on behalf of her parents and stated that they object to the granting of these variances because they will diminish the value of their property because the golf simulator is too close to them and can be used all hours and there is no screening; that her parents' bedroom face this portion of the property and the echo and noise will be a problem; that they should be able to have open windows and quiet; that it is also a safety concern if golf balls are overshot towards their home; that they are not against improvements but not at the expense of their use of their own property and their privacy; that tall bushes should be planted between the properties.

Nancy Galdi, 5 Briarwood Lane, Orangeburg, NY testified that she doesn't mind the improvements but there is no detail provided as to what it looks like; that she has no idea how noisy a golf simulator is; that half of the neighbors are away right now for the holidays; that she shares the north east corner with the applicant and Manhattan Woods; that the 30' x 30' basketball court is too close to the neighbors; that everyone wants to enjoy their property but not at a neighbors expense; that this golf simulator could be used 24/7 and is right on top of us; that right now there is some woods on the property as a noise barrier, but they will be removed for the court and all the noise barrier will be gone; that there are also leeching fields in the area; and with the trees removed, a water backup is likely; that the Gormans' could move the court by the rock wall and save the trees; that area is already cleaned out.

Meeting of February 16, 2022

ZBA#22-03: Application of Tom and Laura Gorman for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 5.227 (Side Yard for accessory structures: 30' required, 27.4' proposed for golf simulator and 18.2' for Pergola) at an existing single-family residence. The property is located at 91 Sickletown Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.15, Block 1, Lot 2 in the R-40 zoning district.

Present: Board members: Dan Sullivan, Tom Quinn, Michael Bosco, Robert Bonomolo, Patricia Castelli, and Billy Valentine. Also: Denise Sullivan, Attorney, Anne Marie Ambrose, Official Court Stenographer, Debbie Arbolino, Administrative Aide, and Katlyn Bettmann, Senior Clerk Typist.

Revised plans were submitted for review with the latest revision date of January 19, 2022.

Steven Griggs and Thomas Gorman appeared.

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.

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Steven Griggs testified that they have moved the court closer to the center of the rear yard and added a line of 8'tall arborvitae trees as screening for the neighbor; that the pergola has been moved away from the house to eliminate that variance; that they are still requesting the variances for the golf simulator and the pergola for the side yard setbacks; that they will need to take down one or two trees to accommodate the court; that the golf simulator is in an enclosed room with a t-v screen and there is no sound outside of the room; that they are willing to spin the simulator slightly (a few feet) to the right (north) and it won't need a variance.

Public Comment:

Zhong Wei Zhang testified that he has three main reasons for objecting to the neighbor's proposed zoning variances; that the sports court and golf simulator are too close to his bedroom window, which is located on the first floor and will create too much noise and will disturb the tranquility of the neighborhood; and he submitted pictures from his master bathroom; stating privacy concerns; that the proposed variance is going from currently 80 feet to minimum total side yard to 58 feet; that there is not too much land in this property's backyard to have so many country club style facilities, since the neighborhood already had a golf and basketball course only a few minutes away; that the second concern is safety and whenever they are swimming in the their pool that they would have concerns about getting hit with basketballs that get shot over the fence; that the third concern is noise that will directly affect the family's residential lifestyle; that they are aware of the noises from the driving range and an indoor golf simulator will not be mask the sound 100%; that it means his family will have to endure this noise at any hour of the day since it can be operated 24/7; that he is not against improvements to properties in town, however, not at the expense of decreasing my property value and my family's safety and lifestyle.

Nancy Galdi, 5 Briarwood Lane, testified that she agrees with her neighbor and all of his concerns and that the items are up against their pool; that she is also concerned about the eco system and the trees coming down; and asked if the basketball court would have lights that would shine into everyone's bedroom windows and that it could be used 24/7 with noise.

Dan Sullivan responded that there is a noise ordinance in town and nothing prohibits the court and the golf simulator is asking for a 2.6 feet variance which is not significant.

Mary Zhang testified that she spoke to the neighbor and asked him to move these things into the front yard away from her yard; that her mother in law and father in law are in the bedroom on the first floor and these things will affect their quality of life; that this is not good to disrespect each other as neighbors; that the 24 hours of ball hitting is dangerous for us and no one would complain if it was moved to the other side.

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 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 side yard for an accessory structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant moved the pergola to be fifteen feet from the house, eliminating that variance and at the hearing agreed to shift the golf simulator three feet to meet the required thirty foot side yard, eliminating that variance. The accessory side yard variance that is being granted is for the outdoor kitchen pergola. The lot is somewhat pie shaped and the house was built with a large front yard which is the side portion of the property and the rear yard is limited by its shape.
2. The requested side yard for an accessory structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant moved the pergola to be fifteen feet from the house, eliminating that variance and at the hearing agreed to shift the golf simulator three feet to meet the required thirty foot side yard, eliminating that variance. The accessory side yard variance that is being granted is for the outdoor kitchen pergola. The lot is somewhat pie shaped and the house was built with a large front yard which is the side portion of the property and the rear yard is limited by its shape.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard for an accessory structure variance is 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 applicant moved the pergola to be fifteen feet from the house, eliminating that variance and at the hearing agreed to shift the golf simulator three feet to meet the required thirty foot side yard, eliminating that variance. The accessory side yard variance that is being granted is for the outdoor kitchen pergola. The lot is somewhat pie shaped and the house was built with a large front yard which is the side portion of the property and the rear yard is limited by its shape.
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 side yard for an accessory structure (outdoor kitchen pergola) 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 side yard for an accessory structure (outdoor kitchen pergola) variance 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.

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: February 16, 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-M.M.

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

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BOARD DETERMINED THAT A USE VARIANCE IS NOT REQUIRED BECAUSE NO OTHER AREA VARIANCES ARE REQUIRED: APPLICANT WAS INSTRUCTED TO RETURN FOR A VARIANCE FROM SECTION 5.153 (ACCESSORY STRUCTURE WITHOUT A PRIMARY STRUCTURE ON THE SAME LOT); SINGLE FAMILY RESIDENTIAL LOT ACKNOWLEDGED IN RIVER VALE, NEW JERSEY

To: Schmitt-Gronek
694 Wicklow Way
River Vale, New Jersey 07675

ZBA #21-92
Date: November 3, 2021
Permit #51724

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-92: Application of Colin Schmitt for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Column 2 uses by right, refers to R-40 which refers to R-80 : (Garage/Shed not listed as a Use by Right) for a proposed accessory structure on a separate tax lot than the existing single-family residence which is located in River Vale, New Jersey . The property is located at 350 South Middletown Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 73.09, Block 1, Lot 11 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 3, 2021 at which time the Board made the determination hereinafter set forth.

Colin Schmitt and Kristen Gronek appeared and testified.

The following documents were presented:

1. Plans labeled "Detail Survey of lot 2 in block 112 on the tax map of the Township of River Vale Bergen County, New Jersey Section 73.09, lot 11 in block 1 on the tax map of the Town of Orangetown by Steven L. Koestner, L.S..
2. ZBA Decisions #04-144 & #00-49 with accessory structures over state lines.
3. A statement from Colin Schmitt & Kristen Gronek regarding the history of the property.
4. Five computer generated color pictures of the property.

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

At the November 3, 2021 hearing the Board and Deputy Town Attorney, Denise Sullivan told the applicants that the project must go out for referrals with the short environmental assessment form to all concerned agencies and that they have to address all four criteria for a use variance in the application; that this is an unusual case and that this action could be an unlisted action under SEQR requirements. The Board also advised the applicant to provide financial information on the property and to contact a real estate person for a professional opinion regarding the property.

Colin Schmitt testified that he was told today that he needed to present a case for a use variance; that he would like to use that portion of his property for a tool/garden shed because eventually

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they would like to install a pool in their rear yard in River Vale; that he has improved the property in Orangetown with a new fence and shrubs and he maintains the grass on that property; and that he would like a continuance in order to submit material for a use variance.

Public Comment:

No public comment.

Colin Schmitt testified that they would like to utilize the land locked property for a tool shed that would not have plumbing or electric and would never be rented out.

At the February 16, 2022 Zoning Board of Appeals Hearing all Board members were present and went into executive session with the Town Attorney to discuss the application.

When they returned Dan Sullivan made a motion that:

1. The ZBA does not agree that this application requires a Use Variance;
2. This application should have been denied by the Building inspector for an area variance from Section 5.153; a variance for an accessory structure on a lot without a primary structure;
3. Similar applications for similarly situated properties that border the Town of Orangetown, New York and abutting State of New Jersey were denied for area variance(s): See, ZBA#04-144 and ZBA#00-49, among other such decisions.
4. This New York property cannot be accessed any other way except from the single-family residential lot in River Vale, New Jersey; and
5. The application should be referred back to the Building Inspector for a revised determination.

This motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye and Mr. Sullivan, aye.


The applicant was instructed to return to the Board at the next hearing after the notice was corrected as per their decision.

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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: February 16, 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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FRONT YARD VARIANCE APPROVED

To: Babu Jacob
22 Marycrest Road
West Nyack, New York 10994

ZBA #22-10
Date: February 16, 2022
Permit # 52054

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-10: Application of Babu Jacob for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Column 8 (Front Yard: 50 ft required, 42.8 feet proposed: 42.6' granted to match bulk table) for the addition of a front porch at an existing single-family residence. The property is located at 22 Marycrest Road, West Nyack, New York and is identified on the Orangetown Tax Map as Section 69.07, Block 1, Lots 37 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 16, 2022 at which time the Board made the determination hereinafter set forth.

Babu Jacob, property owner and Jerry Jacob, son, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Addition(s) for Mr. & Mrs. Jacobs" dated February 2020 with the latest revision date of April 2021 signed and sealed by Eric Knute Osborne, Architect. (3 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; and Ms. Castelli, aye; and Mr. Quinn, aye.

Babu Jacob testified that they have permit for interior work being done to the house; that they would like to add a front porch and they need a front yard variance in order to accomplish that.

Jerry Jacob, applicant's son testified that they need the front porch to protect the front door; that the elements ruined the other front door; that they would like some protection from the rain and snow; ; that the proposal is in keeping with the character of the neighborhood; that there a few other houses in the area with front porches.

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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.

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Quinn 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 (42.6' to match bulk table) 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(42.6' to match bulk table) variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

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: February 16, 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
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

SIDE YARD VARIANCE APPROVED

To: Mark and Kathleen Alexander
16 Pine Glen Drive
Blauvelt, New York 10913

ZBA #22-11
Date: February 16, 2022
Permit # 50794

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-11: Application of Mark and Kathleen Alexander for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12 Column 9 (Side Yard: 30' required, 13.8' existing) for an existing gazebo at an existing single-family residence. The premises are located at 16 Pine Glen Drive, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 65.19, Block 1, Lot 48 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 16, 2022 at which time the Board made the determination hereinafter set forth.

Kathleen Alexander appeared and testified.

The following documents were presented:

1. Plans labeled "Partial Boundary & Topographic Survey 16 Pine Glen Drive" dated 12/14/2012 with the latest revision date of 04/04/2019 signed and sealed by Steven J. Collazuol, P.E. & L.S.. (1 page).
2. A computer generated picture of the gazebo.
3. A letter of explanation not dated signed by Kathleen and Mark Alexander.

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; and Ms. Castelli, aye; and Mr. Quinn, aye.

Kathleen Alexander testified that the existing gazebo was installed in 2002; that it does not meet the side yard setback for the R-40 zoning district; that she would like to legalize it; that it really hasn't bothered anyone for years.

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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar accessory structures have been constructed in the neighborhood.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar accessory structures 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 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 accessory structures 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 side yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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

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: February 16, 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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