

MINUTES  
ZONING BOARD OF APPEALS  
March 2, 2022

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

ABSENT: NONE

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

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

HKC SUNRISE PLAYGROUND 667 Blauvelt Road Pearl River, New York 69.14 / 1 / 28; R-80 zone	SECTION 4.32 (b)(i) VARIANCE APPROVED	ZBA#22-12
STUDENT BUS COMPANY 152 Kings Highway Orangeburg, New York 74.07 / 1 / 15.1; LI zone	OUTDOOR STORAGE OF 30 SCHOOL BUSES APPROVED FOR THE TERM OF THE EXISTING LEASE	ZBA#22-13
HARDER 4 Justin Court Palisades, New York 80.06 / 1 / 6; R-40 zone	FLOOR AREA RATIO, FRONT YARD VARIANCES APPROVED	ZBA#22-14
LEYS 6 Paul Court Tappan, New York 77.11 / 2 / 44; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED UNDER AVERAGE DENSITY RG ZONING	ZBA#22-15

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10:26  
TOWN OF ORANGETOWN

SAMBENITO  
10 Polhemus Street  
Tappan, New York  
77.09 / 2 / 39; RG zone

REAR YARD VARIANCE  
APPROVED

ZBA#22-16

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

SECTION 5.153: LOCATION OF  
ACCESSORY STRUCTURE  
VARIANCE APPROVED

ZBA#22-17

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: ASCAPE Landscaping Re-Subdivision Plan, (lot merger), 634-638 Route 303, Blauvelt, NY 65.14 / 1 / 2 & 4; LI zone; 867 Route 9W Site Plan Critical Environmental Area, 867 Route 9W, Upper Grandview, NY 75.05 / 1 / 6; R-22 zoning district; 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 8:45 P.M.

Dated: ~~February 16~~, 2022

*March 2,*

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By



Deborah Arbolino, Administrative Aide

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

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 29  
TOWN CLERK'S OFFICE

**SECTION 4.32 (b) (i) VARIANCE APPROVED**

To: Donald Brenner ( HKC Sunrise)  
4 Independence Avenue  
Tappan, New York 10983

ZBA #22-12  
Date: March 2, 2022  
Permit #ZON-000107-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-12: Application of HKC Sunrise Day Camp Playground for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Article IV, Section 4.32 (b)(i) (Yards, Spacing of buildings and screenings. [ No buildings, tent, activity area or recreation facility shall be less than 300 feet from any lot line] ) for a playground at the existing campgrounds. The property is located at 667 Blauvelt Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.14, Block 1, Lot 28 and Section 69.10, Block 2, Lot 21 in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 2, 2022 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Sunrise Day Camp Association Playground Improvements" dated 08/02/2021 not signed or sealed by Stantec, 3 pages.
2. A memorandum dated December 6, 2021 from Jane Slavin, RA., Director, O.B.Z.P.A.E. Town of Orangetown.
3. A letter dated February 18, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated February 18, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello. P.E., Senior Public Health Engineer.
5. A signed off dated January 2, 2022 from Rockland County Highway Department signed by Dyan Rajasingham.
6. Planning board decision #07-55.

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

Mr. Sullivan made a motion that since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted SEQRA review and on December 8, 2021 (set forth in PB# 21-67), rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" or "Neg Dec") the Zoning Board of Appeals is bound by HKC Sunrise

TOWN CLERK'S OFFICE

2022 MAR 10 A 10: 26

TOWN OF ORANGETOWN

the Planning Board's Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.5 (b) (3); which motion was seconded by Ms. Castelli and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye; Mr. Bosco, aye; Ms. Castelli, aye; and Mr. Sullivan, aye.

Donald Brenner, Attorney testified that the Sunrise Camp is for children with cancer; that they would like to replace the outdated mini golf area with synthetic turf and a new playground; that they already received a final approval from the Planning Board subject to obtaining this variance for the play area; that the play area is located five hundred eighty-nine (589) feet. And at six hundred (600) feet and at six hundred ninety-three (693) feet from the residential lots and located two hundred fifty-seven (257) feet from the golf course property; and he submitted pictures and a map to the board.

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 Ms. Castelli and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested Section 4.32 (b)(i) variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar variances have been granted for accessory structures constructed in the campgrounds. The playground shall be located two hundred fifty-seven (257) feet from the golf course; and located five hundred eighty-nine (589) feet from the residences on the McKinley Street side and located six hundred ninety-three (693) feet from residences on the Blauvelt Road side.
2. The requested Section 4.32 (b)(i) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar variances have been granted for accessory structures constructed in the campgrounds. The playground shall be located two hundred fifty-seven (257) feet from the golf course; and located five hundred eighty-nine (589) feet from the residences on the McKinley Street side and located six hundred ninety-three (693) feet from residences on the Blauvelt Road side.

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 27  
TOWN CLERK'S OFFICE

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 Section 4.32 (b)(i) variance is not 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. Similar variances have been granted for accessory structures constructed in the campgrounds. The playground shall be located two hundred fifty-seven (257) feet from the golf course; and located five hundred eighty-nine (589) feet from the residences on the McKinley Street side and located six hundred ninety-three (693) feet from residences on the Blauvelt Road side.
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 Section 4.32 (b)(i) 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.

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 27  
TOWN CLERK'S OFFICE

(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 Section 4.32 (b)(i) variance is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, 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: March 2, 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-N.A.

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

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 27  
TOWN CLERK'S OFFICE

**OUTDOOR STORAGE OF SCHOOL BUSES ; SECTION 3.11, COLUMN 7 #5  
VARIANCE APPROVED**

To: Donald Brenner (Student bus Company)  
4 Independence Avenue  
Tappan, New York 10983

ZBA #22-13  
Date: March 2, 2022  
Permit #ZON-000117-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-13: Application of Student Bus Company for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.11, Column 7 #5 (All storage shall be in completely enclosed buildings: Storage of school buses not in building) at an existing parking lot located on the east side of Greenbush Road at the intersection of Mountainview Avenue, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 15.1 in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 2, 2022 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Renaco Marquez, Operations Manager, Student Bus Company, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Parking Lot Modifications for Student Bus Company@ 125 So. Greenbush Road" dated 11/20/2007 with the latest revision date of 12/15/2021 signed and sealed by Jay A. Greenwell, PLS. ( 2 pages)
2. A memorandum dated December 6, 2021 from Jane Slavin. RA., Director, Orangetown Building, Zoning, Planning Administration and Enforcement.
3. Zoning Board of Appeals Decision # 08-29, dated April 16, 2008.
4. Planning Board Decisions #21-66 dated December 8, 2021 and PB#07-55 dated January 23, 2008.
5. A letter dated March 1, 2022 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. An email dated February 7, 2022 from Shajan Thottakara, P.E., CFM, Engineer III, Rockland County Drainage Agency.
7. A letter dated February 23, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
8. A sign-off dated 2/18.2022 from Liz Mello, Rockland County Health Department.

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

Mr. Sullivan made a motion that since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted SEQRA review and on December 8, 2021 (set forth in PB# 21-66), rendered an environmental determination of

TOWN CLERK'S OFFICE

2022 MAR 10 A 10: 27

TOWN OF ORANGETOWN

no significant adverse environmental impacts to result from the proposed land use action (i.e. a “Negative Declaration” or “Neg Dec”) the Zoning Board of Appeals is bound by the Planning Board’s Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.5 (b) (3); which motion was seconded by Mr. Quinn and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye; Mr. Bosco, aye; Ms. Castelli, aye; and Mr. Sullivan, aye.

Donald Brenner, Attorney testified that the application received final approval from the Planning Board on December 8, 2021 with the specific condition that they receive the necessary variance from the Zoning Board; that these buses are used for students in the South Orangetown School District; that there were extra buses parked in the lot during COVID when no buses were being used for transportation; that they have plans to park only 30 buses on the lot, that they were previously approved for 30 buses; that he does not know why they never came back to renew the approval that expired; that allowing the buses to park in this space is not in conflict with the new warehouse project that is proposed because the lease includes language for what will happen if and when the warehouse would be approved; that there is a new owner now and they want to legalize everything and they will submit a copy of the lease.

Renaco Marquez, Operations Manager for Student Bus Company testified that during COVID there were more buses in the lot but they were not running as school was remote, that they were moving buses from one location to another at that time and replacing buses; that they have five parking spaces designated specifically for the four office workers that are on site; that the bus drivers have sufficient parking for their cars when they go out on their designated routes; that the drivers do go into the office and there has never been anyone run over in the parking lot; that the buses park on the periphery of the lot; that their lease specifically states that they have a three year lease, however if the proposed warehouse gets approval they would have one year to relocate or until the end of that particular school year; that they will not have more than 30 buses on the site and the driveway to the office worker parking spots is about 30 feet wide.

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. Bonomolo and carried unanimously.

TOWN CLERK'S OFFICE

2022 MAR 10 A 10:27

TOWN OF ORANGETOWN



FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested , Section 3.11, Column 7 #5 variance (Permitting the buses to be stored outside of a building) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged that the buses have been using the lot since 2008 without incident in the neighborhood. As a condition of the approval the applicant shall submit a copy of the current lease which indicates that the proposed warehouse expansion (PB#19-17) will not interfere with the bus company lease because there are specific clauses in the lease to protect both parties.
2. The Board instructed the applicant that they must return prior to renewing the lease to apply for an extension of time for the Section 3.11 Column 7 #5 variance (Permitting the buses to be stored outside of a building). There is sufficient parking in the rear of the building for the other warehouse occupants. Since there have been no significant changes since the Board originally granted permission for the outdoor parking of the buses, they do not need revised plans.
3. The requested , Section 3.11, Column 7 #5 variance (Permitting the buses to be stored outside of a building) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged that the buses have been using the lot since 2008 without incident in the neighborhood. As a condition of the approval the applicant shall submit a copy of the current lease which indicates that the proposed warehouse expansion (PB#19-17) will not interfere with the bus company lease because there are specific clauses in the lease to protect both parties.
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 Section 3.11, Column 7 #5 variance although substantial, 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 that the buses have been using the lot since 2008 without incident in the neighborhood. As a condition of the approval the applicant shall submit a copy of the present lease which indicates that the proposed warehouse will not interfere with the bus company lease because there are specific clauses in the lease to protect both parties.
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.

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10: 27  
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 3.11, Column 7 #5 variance is APPROVED with the SPECIFIC CONDITION that the applicant submit for the record a copy the current lease; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10: 27  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Section 3.11, Column 7 #5 variance is APPROVED; and to override #1 through 13.3 of the letter from Rockland County Planning dated March 1, 2022 because the Board found that the proposal before the Planning Board under PB#19-17 is not relevant to this application as no action has been taken on this application since 2019; that the applicant's current lease has specific conditions that accommodate both parties (the bus company and the warehouse expansion) if the project is ready to move forward prior to the end of the existing lease; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, 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: March 2, 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-N.A.?

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

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10: 27  
TOWN OF ORANGETOWN

**FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED**

To: Jim Harder  
4 Justin Court  
Palisades, New York 10964

ZBA #22-14  
Date: March 2, 2022  
Permit #ZON-000103-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-14: Application of Jim Harder 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, 17.1% proposed) and 8 (Front Yard: 50 ft required, 48' 3" proposed) for the addition of a front porch at an existing single-family residence. The property is located at 4 Justin Court, Palisades, New York and is identified on the Orangetown Tax Map as Section 80.06, Block 1, Lot 6 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 2, 2022 at which time the Board made the determination hereinafter set forth.

Jim Harder appeared and testified.

The following documents were presented:

1. Plans labeled "Susan Essman /James Harder" dated December 21, 2021 signed and sealed by Peter E. Papay, P.E., (5 pages).
2. A letter dated February 24, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated February 18, 2022 from the Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
4. A sign off dated 01/20/ 2022 from Dyan Rajasingham, Rockland County Highway Department.
5. A zoning board for a previous owner of the property decision #02-37 for a front yard variance for a pool : property has two front yards.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Jim Harder testified that he would like to expand the existing screened in porch to accommodate his large family; that the northern most corner of the proposed expansion juts into the required

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10: 27  
TOWN OF ORANGETOWN

front yard set-back; that the property is a corner lot with two front yards; that the addition to the screened in porch would be about 109 sq. ft. to accommodate a larger table for his four kids and one grandchild when they visit and would also be more accessible for his brother in law who is in wheelchair; that they enjoy being outside and protected from the mosquitoes.

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 Ms. Castelli and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the lot has two front yards and the house was built on an angle. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio and front 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 lot has two front yards and the house was built on an angle on the property. 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 and front yard variances are 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. The Board acknowledged the lot has two front yards and the house was built on an angle on the property. Similar additions have been constructed in the neighborhood.

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10:27  
TOWN OF ORANGETOWN

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 and front yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE

2022 MAR 10 A 10:28

TOWN OF ORANGETOWN

Harder  
ZBA#22-14  
Page 4 of 4


Permit #ZON-000103-2022

The foregoing resolution to approve the application for the requested floor area ratio and front yard variances are APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Ms. Castelli, aye; Mr. Bonomolo, aye; and Mr. Sullivan, 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: March 2, 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

TOWN OF ORANGETOWN  
2022 MAR 10 A 10:28  
TOWN CLERK'S OFFICE

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Alexandra Leys  
6 Paul Court  
Tappan, New York 10986

ZBA #22-15  
Date: March 2, 2022  
Permit #ZON-000115-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-15: Application of Alexandra Leys for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District: Average Density granted at subdivision map #4993 to RG District, Group Q, Section 3.12 Column 4 ( Floor Area Ratio: 30% permitted 43% proposed) for an addition to an existing single-family residence. The premises are located at 6 Paul Court, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 44 in the RG ( average density) zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 2, 2022 at which time the Board made the determination hereinafter set forth.

Roberto Palmerini, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Renovation and Additions for Leys Residence" dated December 28, 2021 signed and sealed by Roberto N. Palmerini, Architect. (2 pages).
2. A letter dated February 24, 2022 from the County of Rockland Department of Planning signed by Helen Kenny Burrows for Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated February 18, 2022 from the Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
4. A sign off by Dyan Rajasingham, Rockland County Highway Department dated 1/28/2022.
5. Five computer generated pictures of the existing house and one computer generated picture of the house at 1 Paul Court with a similar addition.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

TOWN OF ORANGETOWN  
2022 MAR 10 A 10:28  
TOWN CLERK'S OFFICE



Robert Palmerini, Architect, testified that the proposal is to add a second floor addition over the existing garage and room in the back; that they are proposing to add a master bedroom suite and an additional bathroom; that there will be no change in the footprint for the bedroom and bathroom addition; that they are also proposing to add a front porch; that the house has been in the family since 1980; that there is no basement; that Mr. and Mrs. Leys have four children and need a little more room; and he submitted pictures of the house and a picture of the house at 1 Paul Court that a similar addition over the garage.

The discussed this property being viewed as the RG zone because of the average density subdivision and although the numbers are high for the floor area ratio, the proposed addition does fit into the character of the neighborhood.

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 Ms. Castelli and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the lot was created in a subdivision with average density and noted that similar additions have been constructed in the neighborhood.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the lot was created in a subdivision with average density and noted that similar additions have been constructed in the neighborhood.

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10:28  
TOWN OF GRANGETOWN

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested floor area ratio variance 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 lot was created in a subdivision with average density 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 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.

TOWN CLERK'S OFFICE

2022 MAR 10 A 10:28

TOWN OF ORANGETOWN

(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 variance is APPROVED; was presented and moved by Ms. Castelli, 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: March 2, 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

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 28  
TOWN CLERK'S OFFICE

**REAR YARD VARIANCE APPROVED**

To: Constantin Minea (Sambenito)  
571 Stellman Road  
River Vale, New Jersey 07675

ZBA #22-16  
Date: March 2, 2022  
Permit #ZON\_000118-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-16: Application of Dina Sambenito for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 11 (Rear Yard: 25 ft required, 12.32' proposed) for an addition at an existing single-family residence. The property is located at 10 Polhemus Street, Tappan New York and is identified on the Orangetown Tax Map as Section 77.08, Block 2, Lot 39 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 2, 2022 at which time the Board made the determination hereinafter set forth.

Constantin Minea appeared and testified.

The following documents were presented:

1. Plans labeled "Residential Addition & Renovation for Mr. & Mrs. Sambenito" dated September 9, 2021 with the latest revision date of 1/13/2022 signed and sealed by John J. Gilchrist, Architect. (3 pages).

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Lucille Sallazzo testified that Dina is a wonderful cook and she would like to make her kitchen a bit larger and a family room for entertaining; that the proposed addition does not encroach into the rear yard but it will attach to the existing garage that is 12.32' from the rear property line and that is why they need the rear yard variance; that the house is two stories but the proposed addition is one story; that there is an existing shed and pergola in the rear yard and they will move them if necessary to make sure they are five feet from the rear and side property lines.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE  
28 MAR 10 A 10:28  
TOWN OF ORANGETOWN

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Bonomolo and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested rear 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 and the rear yard variance is necessary because the proposed addition will be attached to the existing garage.
2. The requested rear 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 and the rear yard variance is necessary because the proposed addition will be attached to the existing garage.
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 rear 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 and the rear yard variance is necessary because the proposed addition will be attached to the existing garage.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10:29  
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested rear 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.

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 29  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bonomolo 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: March 2, 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 OF ORANGETOWN  
2022 MAR 10 A 10: 29  
TOWN CLERK'S OFFICE

**SECTION 5.153; LOCATION OF ACCESSORY BUILDING OR STRUCTURES  
VARIANCE APPROVED**

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

ZBA #22-17  
Date: March 2, 2022  
Permit #51724

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-17: Application of Colin Schmitt and Kristen Gronek for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.153( Accessory Structure without a Primary Structure) for a proposed accessory structure on a separate tax lot than the existing single-family residence which is located in River Vale, New Jersey. (previously ZBA # 21-92) 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, March 2, 2022 at which time the Board made the determination hereinafter set forth.

Colin Schmitt and Kristen Gronek appeared.

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.

Colin Schmitt testified that he would like to use that portion of his property located in Orangetown for a 30' x 14' tool/garden shed because eventually they would like to install a pool behind their home in their rear yard in River Vale, New Jersey; 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 appreciates the Board re-considering the application for the accessory structure on the portion of his property that is in New York.

TOWN OF ORANGETOWN  
2022 MAR 10 A 10: 29  
TOWN CLERK'S OFFICE



Public Comment:

No public comment.

Dan Sullivan, Chairman stated that this is the best solution for the applicant's hardship and Patricia Castelli added that it is the only solution.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested Section 5.153 accessory structure without a primary structure on the same lot variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Sheds have been installed on neighboring properties. The Board acknowledged the lot in River Vale, New Jersey with a single-family residence located on it and with access to the lot in Pearl River, New York. The subject lot in Orangetown, New York can only be accessed through the property located at 694 Wicklow Way, River Vale New Jersey, which is owned by the applicant. The Board noted that similar applications have been presented to the Board in the past; and the Board has granted a variance in another application for an in-ground swimming pool to be constructed on a separate tax lot in Pearl River, New York with primary structure located on a tax lot in Montvale, New Jersey (ZBA#00-49) ; and had also granted variances for a gazebo constructed half in Pearl River , New York and half in Montvale, New Jersey (ZBA#04-144).
2. The requested Section 5.153 accessory structure without a primary structure on the same lot variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Sheds have been installed on neighboring properties. The Board acknowledged the lot in River Vale, New Jersey with a single-family residence located on it and with access to the lot in Pearl River, New York. The subject lot in Orangetown, New York can only be accessed through the property located at 694 Wicklow Way, River Vale New Jersey, which is owned by the applicant. The Board noted that similar applications have been presented to the Board in the past; and the Board has granted a variance in another application for an in-ground swimming pool to be constructed on a separate tax lot in Pearl River, New York with primary structure located on a tax lot in Montvale, New Jersey (ZBA#00-49) ; and had also granted variances for a gazebo constructed half in Pearl River , New York and half in Montvale, New Jersey (ZBA#04-144).

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10:29  
TOWN OF ORANGETOWN

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 Section 5.153 accessory structure without a primary structure on the same lot 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. . Sheds have been installed on neighboring properties. The Board acknowledged the lot in River Vale, New Jersey with a single-family residence located on it and with access to the lot in Pearl River, New York. The subject lot in Orangetown, New York can only be accessed through the property located at 694 Wicklow Way, River Vale New Jersey, which is owned by the applicant. The Board noted that similar applications have been presented to the Board in the past; and the Board has granted a variance in another application for an in-ground swimming pool to be constructed on a separate tax lot in Pearl River, New York with primary structure located on a tax lot in Montvale, New Jersey (ZBA#00-49) ; and had also granted variances for a gazebo constructed half in Pearl River , New York and half in Montvale, New Jersey (ZBA#04-144).
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 Section 5.153 Accessory Structure variance without a Primary Structure on the same lot is APPROVED with the Specific acknowledgment that the property in New York that this variance is the subject of, can only be accessed through the property located at 694 Wicklow Way, River Vale, New Jersey which owner is the applicant of this application; 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.

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10:29  
TOWN OF ORANGETOWN

(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 Section 5.153 Accessory structure variance without a primary structure on the same lot is APPROVED: with the Specific acknowledgment that the property in New York that this variance is the subject of, can only be accessed through the property located at 694 Wicklow Way, River Vale, New Jersey which owner is the applicant of this application; which motion was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, ay; 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: March 2, 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

TOWN CLERK'S OFFICE  
2022 MAR 10 A 10: 29  
TOWN OF ORANGETOWN