

MINUTES
ZONING BOARD OF APPEALS
April 20, 2022

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
PATRICIA CASTELLI
THOMAS QUINN
BILLY VALENTINE

ABSENT: MICHAEL BOSCO
ROBERT BONOMOLO, JR.

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney
Anne Marie Ambrose Official Stenographer

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

CALABRIA/SIDE PORCH
479 Western Highway
Blauvelt, New York
74.06 / 3 / 4; R-15 zone

FLOOR AREA RATIO, FRONT YARD, BUILDING HEIGHT AND EXTENSION OF NON-CONFORMING BULK APPROVED ZBA#22-20

NEW ITEMS:

BADILLO
67 Chestnut Oval
Orangeburg, New York
74.06/ 1 / 22; RG zone

FLOOR AREA RATIO, SIDE YARD, AND TOTAL SIDE YARD VARIANCES APPROVED AS MODIFIED (UNDERSIZED LOT ACKNOWLEDGED) ZBA#22-26

DALTON
117 Prospect Place
Pearl River, New York
68.20 / 2 / 37; RG zone

FLOOR AREA RATIO, FRONT YARD, SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED: UNDERSIZED LOT ACKNOWLEDGED ZBA#22-27

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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Onyx Management Company-Conditional Use Permit; 100 Corporate Drive, Blauvelt, NY 65.18 / 1 / 16; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

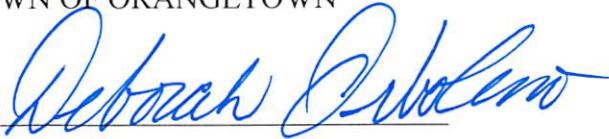
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:30 P.M.

Dated: April 20, 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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**FLOOR AREA RATIO, FRONT YARD, BUILDING HEIGHT AND SECTION 9.34
VARIANCES APPROVED**

To: Anthony Ripani
18 Bridge Lane
Haverstraw, New York 10927

ZBA #22-20
Date: March 16, 2022 & April 20, 2022
Permit # BLDG-432-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-20: Application of Calabria Pizza/ Side Porch for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group O, Column 3 Non-Conforming Restaurant, Section 3.12, Columns 4 (Floor Area Ratio: 20% permitted, 25.7% proposed) and 8 (Front Yard: 30 ft required, 8' proposed, 0.2 & 1.0 existing) and 12 (Building Height: 1' per foot or 8' w 1/9' per foot with 22 ¾' existing; 15.2' proposed) and from Section 9.34 (Extension or enlargement of a nonconforming use up to but not exceeding 50% of floor area) for the addition to a pre-existing non-conforming restaurant. The property is located at 479 Western Highway, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 74.06, Block 3, Lot 4 in the R-15 zoning district.

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

Harry Goldstein, Architect, Donald Brenner, Attorney and Anthony Ripani, owner of Calabria, appeared and testified.

The following documents were presented:

1. Plans labeled "The Side Porch Tavern Calabria Pizzeria Addition" dated December 29, 2021 signed and sealed by Harold J. Goldstein, Architect. (2 pages).
2. A letter dated February 10, 2022 to the ZBA signed and sealed by Harry J. Goldstein, Architect.
3. ZBA Decision #99-26 dated March 17, 1999, ACABOR Decision # 99-75 dated May 18, 1999; ACABOR # 13-34 dated June 13, 2013 and ACABOR #10-44 dated November 18, 2010.
4. A letter dated March 9, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated March 11, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
6. A letter dated March 10, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
7. A Sign off from Rockland County Highway Department dated 2/14/2022 by Dyan Rajasingham, P.E.
8. A letter dated February 10, 2022 from Harry J. Goldstein, explaining the project.

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

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Donald Brenner, Attorney, testified that the restaurant existed on this property prior to zoning; that Calabria has been in business down the street since 1989; that he would like to move to this building and modernize the space with a pizza oven where the deck existed; that the building is being increased by 306 sq. ft.; that there is no other way to incorporate the pizza oven into the building; that the existing kitchen is very small; that they are not increasing the capacity of the building; that there are four studio apartments upstairs that the County included as restaurant space; that they would like a continuance to correct the publication and clarify some items.

Harry Goldstein, Architect testified that the paved area is not changing; that the additional space is not being used to increase the seating in the restaurant; that the letter from the County Planning "Department is assuming the entire building is used as a restaurant and it is not; that they would like a continuance to meet with the Building Inspector and clarify some of these items that the county questioned.

Michael Bosco asked the applicant to clarify the outstanding issues and delineate the parking on the site plan; and the square footage of the restaurant.

Public Comment:

No public comment

Revised Publication:

ZBA#22-20: Application of Calabria Pizza/ Side Porch for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group O, Column 3 Non-Conforming Restaurant, Section 3.12, Columns 4 (Floor Area Ratio: 20% permitted, 25.7% proposed) and 8 (Front Yard: 100 ft required, 8' proposed, 0.2 & 1.0 existing) and 12 (Building Height: 3" per foot or 2 foot with 22 ¼' existing; 15.2' proposed) and from Section 9.34 (Extension and Enlargement allows a non-conforming use to be extended to the extent the bulk regulations allow... with FAR, Front Yard and Height proposed limits being extended beyond the bulk allowances: also the Section 9.34 provision may be used once with a second extension proposed) for the addition to a pre-existing non-conforming restaurant. The property is located at 479 Western Highway, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 74.06, Block 3, Lot 4 in the R-15 zoning district.

Submitted for review at this hearing:

1. Plans labeled "The Side Porch Tavern Calabria Pizzeria Addition" dated December 29, 2021 with a revision date of 3/27/ 2022 signed and sealed by Harold J. Goldstein, Architect. (2 pages).

Present at the hearing of April 20, 2022: Daniel Sullivan, Tom Quinn, Patricia Castelli, Billy Valentine. Robert Bonomolo and Mike Bosco were absent.

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Donald Brenner, Attorney, Harry Goldstein, Architect and Anthony Ripani, owner of Calabria, appeared and testified.

Donald Brenner, Attorney, testified that they are back before the Board with a cleaned up referral from the building inspector; that the original expansion of a non-conforming use was granted for a deck that was approved for smokers to go outside the bar and smoke; and the decision ZBA#99-26 specifically stated that the owners intention that no food or drinks would be served out on the deck; that the deck is being removed to add the additional kitchen space for the pizza oven; that they would appreciate the Board viewing this application as the one time only expansion of the non-conforming use; that there was a question regarding parking last time and the Architect can address that.

Harry Goldstein, Architect, testified that there is 2,784 sq. ft. for the restaurant, which requires 28 parking spaces; that there are four studio apartments on the second level of the building which require 6 additional parking spaces; the total spaces required are 34 and there are 36 spaces available and an additional space on the easement that they are not including in the calculation.

The Board discussed the letter from Rockland County Planning Department dated March 9, 2022; and stated that the building has existed in its present location well before there was a zoning code in the Town of Orangetown; that the increase to the building to permit a pizza kitchen and pick up area, with the removal of the deck is minimal; although the floor area ratio number may be high, the addition is only 562 square foot and the deck that was added in 1999 was 256 sq. ft. and it is being removed; so the increase is actually 306 sq. ft.; the Board is aware of cumulative regional impacts and does not consider an additional 306 sq. ft. undesirable. The revised denial from the building inspector corrected the group use from M to O; and the applicant submitted a revised a site plan showing the parking/ building requirements and the site has sufficient parking for the proposed use.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since this application seeks variances for : reuse of residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part; OR replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any thresholds in section 617.4 of this Part, AND is exempt from environmental review under the State Environmental Quality Review Act pursuant to SEQRA Regulations 617.5 (c) (9) and/or under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9) and/or (18); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Bonomolo were absent.

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 floor area ratio, front yard, building height and Section 9.34 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged ZBA#99-26 wherein the prior owner/applicant appeared before the ZBA for a variance from Section 9.34 for an expansion of a non-conforming use by the addition of a deck; and that the variance granted was for a 256 sq. ft. deck; that testimony stated within the decision that the deck would not be used for any outdoor drinking or dining on the deck. The Board acknowledges that the APPLICATION UNDER prior decision ZBA#99-26 should have fallen under the exception under Section 9.34 (“...or the extension of the use outside the building”) as the restaurant use was clearly not extending to the deck outside. The request before the Board today is for removal of the 256 sq. ft. deck and construction of a 562 sq. ft. addition of a pizza kitchen with waiting area which would increase the non-conforming bulk. This would permit a local business to relocate and own the building. The requested area variances for building height and front yard encroach less than the existing building height and existing front yard setbacks. Existing front yard setback is .2’ and 1’ and the proposed setback for the pizza kitchen is 8’; and the pizza kitchen is one story and the building are two stories.
2. The requested floor area ratio, front yard, building height and Section 9.34 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged ZBA#99-26 wherein the prior owner/applicant appeared before the ZBA for a variance from Section 9.34 for an expansion of a non-conforming use by the addition of a deck; and that the variance granted was for a 256 sq. ft. deck; that testimony stated within the decision that the deck would not be used for any outdoor drinking or dining on the deck. The Board acknowledges that the APPLICATION UNDER prior decision ZBA#99-26 should have fallen under the exception under Section 9.34 (“...or the extension of the use outside the building”) as the restaurant use was clearly not extending to the deck outside. The request before the Board today is for removal of the 256 sq. ft. deck and construction of a 562 sq. ft. addition of a pizza kitchen with waiting area which would increase the non-conforming bulk. This would permit a local business to relocate and own the building. The requested area variances for building height and front yard encroach less than the existing building height and existing front yard setbacks. Existing front yard setback is .2’ and 1’ and the proposed setback for the pizza kitchen is 8’; and the pizza kitchen is one story and the building are two stories.

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3. The requested floor area ratio, front yard, building height and Section 9.34 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged ZBA#99-26 wherein the prior owner/applicant appeared before the ZBA for a variance from Section 9.34 for an expansion of a non-conforming use by the addition of a deck; and that the variance granted was for a 256 sq. ft. deck; that testimony stated within the decision that the deck would not be used for any outdoor drinking or dining on the deck. The Board acknowledges that the APPLICATION UNDER prior decision ZBA#99-26 should have fallen under the exception under Section 9.34 (“...or the extension of the use outside the building”) as the restaurant use was clearly not extending to the deck outside. The request before the Board today is for removal of the 256 sq. ft. deck and construction of a 562 sq. ft. addition of a pizza kitchen with waiting area which would increase the non-conforming bulk. This would permit a local business to relocate and own the building. The requested area variances for building height and front yard encroach less than the existing building height and existing front yard setbacks. Existing front yard setback is .2’ and 1’ and the proposed setback for the pizza kitchen is 8’; and the pizza kitchen is one story and the building are two stories.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, front yard, building height and Section 9.34 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 that the applicant did appear before the Board in 1999 for a variance from Section 9.34 and that the variance granted was for a 256 sq. ft. deck, that was not actually an increase in use for the bar/restaurant, the ZBA Decision #99-26 testimony stated that the deck would not be used for any outdoor drinking or dining on the deck; that the request before the Board today is for an additional 306 sq. ft. for a total of 562 sq. ft. increase in non-conforming bulk which will increase the size of the pizza kitchen and permit a local business to relocate and own the building. The requested area variances encroach less than the existing building.
6. The applicant purchased the property subject to Orangetown’s Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio, front yard, building height and Section 9.34 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.

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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 floor area ratio, front yard, building height and Section 9.34 variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Valentine, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Bonomolo were absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: April 20, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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**FLOOR AREA RATIO AS AMENDED , SIDE YARD AND TOTAL SIDE YARD
VARIANCES APPROVED: UNDERSIZED LOT ACKNOWLEDGED: CARPORT
SHALL REMAIN OPEN ON THE FRONT, SIDE AND REAR**

To: Angela Badillo
67 Chestnut Oval
Orangeburg, New York 10962

ZBA #22-26
Date: April 20, 2022
Permit # BLDR-594-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-26: Application of Daniel and Angela Badillo for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Group Q, Columns 4 (Floor Area Ratio: 30% permitted, 39.1% proposed) , 9 (Side Yard: 10' required, 1.7' proposed) and 10 (Total Side Yard: 30' permitted, 17' proposed) (Section 5.21 Undersized lot applies); for an addition to an existing single-family residence. The property is located at 67 Chestnut Oval, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.06, Block 1, Lot 22; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 20, 2022 at which time the Board made the determination hereinafter set forth.

Angela and Daniel Badillo appeared and testified.

The following documents were presented:

1. Plans labeled "Plot Plan for Badillo" dated January 4, 2021 signed and sealed by Jay Greenwell, Land Surveyor.
2. Architectural plans labeled "Badillo Residence" dated 11/12/2021, signed and sealed by Margaret L. Fowler, Architect. (9 pages)
3. Three letters in support of the application.
4. A letter dated April 14, 2022 from Margaret Fowler, Architect stating that the floor area ratio would be 0.366 without the proposed second floor.

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. Quinn, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Bonomolo and Mr. Bosco were absent.

Angela Badillo testified that they originally were proposing to expand the first floor with a family room and add a bathroom and carport; that they were also planning to expand the second floor above the addition to add a master bedroom; that they started the project last year; that they just started getting estimates for construction and realize that they need to cut back on the project

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and not add the second floor; that since they were already scheduled for the hearing they asked the architect to supply them with a letter showing the decrease in floor area ratio without the second floor, in the hopes that the Board would consider granting less of a variance.

Daniel Badillo testified that they have owned the house for 30 years; that presently they have one adult son living with them; that they have no intention of enclosing the carport; and would honor a condition that it remain open sided; that the shed in the rear of the property is five feet from the rear and side yard and it measures 8' x 16'; and they appreciate the Boards consideration.

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 as amended to 0.366, side yard, total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar house additions have been constructed in the neighborhood. The applicant has agreed to an amended floor area ratio of .366 and to construct the carport as shown on the plan and to always keep it open and not to enclose the sides or rear of the carport.
2. The requested floor area ratio as amended to 0.366, side yard, and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that similar house additions have been constructed in the neighborhood. The applicant has agreed to an amended floor area ratio of .366 and to construct the carport as shown on the plan and to always keep it open and not to enclose the sides or rear of the carport.

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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 as amended to 0.366, side yard and total side yard variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that similar house additions have been constructed in the neighborhood. The applicant has agreed to an amended floor area ratio of .366 and to construct the carport as shown on the plan and to always keep it open and not to enclose the sides or rear of the carport.
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 as amended to 0.366, side yard and total side yard variances are APPROVED; and FURTHER RESOLVED the undersized lot is acknowledged; and FURTHER RESOLVED that the carport shall remain open sided as shown on the plans submitted by Margaret Fowler, Architect; 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

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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 floor area ratio as amended to 0.366, side yard and total side yard variances are APPROVED with the SPECIFIC CONDITION that the carport remain open as shown on the plans submitted by Margaret Fowler, Architect; and the undersized lot is acknowledged; was presented and moved by Ms. Castelli, seconded by Mr. Valentine; and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Valentine, aye. Mr. Bosco and Mr. Bonomolo were absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: April 20, 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 CLERK9
HIGHWAY DEPARTMENT
ASSESSOR
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND BUILDING HEIGHT
VARIANCES APPROVED: UNDERSIZE LOT ACKNOWLEDGED**

To: Karl Ackermann (Dalton)
117 Prospect Place
Pearl River, New York 10965

ZBA #22-27
Date: April 20, 2022
Permit #BLDR-657-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-27: Application of Christopher Dalton for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 3.12, Group Q, Columns 4 (Floor Area Ratio: 30% permitted, 47.39% proposed), 8 (Front Yard: 25' required, 8.33' proposed), 9 (Side Yard: 10' required, 7' proposed), and 12 (Building Height: 20'permitted, 23.1'proposed): (Section 5.21 (e) Undersized lot applies) The property is located at 117 Prospect Place, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 37 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 20, 2022 at which time the Board made the determination hereinafter set forth.

Christopher Dalton and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed New Residence for Mr. Dalton/Bluehill Construction, Inc" dated February 15, 2022 and revised March 3, 2022 signed and sealed by Karl E. Ackermann, Architect. (4 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. Quinn, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Bonomolo and Mr. Bosco were absent.

Karl Ackerman, Architect, testified that the property was in really bad repair for a long time; that the applicant received a demolition permit first because of the dangerous conditions; that the first plan that he submitted to the building department was larger than this plan; that he looked at other house setbacks in the area along John Street and re-submitted a scaled down version of the

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original proposal; that the lot is 6,970 sq. ft.; that it also has two front yards, Prospect and John; that the side of the property backs up to the Methodist Church; that the front of the house will be on John Street and the garage entrance will be on Prospect; set in thirty feet so there will be enough room for cars to park in the driveway and the garage; that he added a front porch to keep in character with other houses on the street; that the front porch is set back 9.4' but there is an additional 11.8' to the street; that the sidewalk abruptly ends and the applicant is willing to extend it for safety reasons to Prospect, at his own cost with permission from the Town; that the house is 1 ½ stories, which is in keeping with the character of other houses in the area; that it has an open floor plan with two baths and four bedrooms ; and they must appear before the architectural review board for review of their planting plan; that if they had a 10,000 sq.,. ft. lot the requested floor area ratio would be 33.03 and they are three feet above the permitted 20'.

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 floor area ratio, front yard, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that similar sized houses have been constructed in the neighborhood on similar sized lots.
2. The requested floor area ratio, front yard, side yard, and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that similar sized houses have been constructed in the neighborhood on similar sized lots.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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4. The requested floor area ratio, front yard, side yard and building height variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that similar sized houses have been constructed in the neighborhood on similar sized lots.
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 variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio, front yard, side yard and building height 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.

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

The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard and building height variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Valentine, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bosco and Mr. Bonomolo were absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: April 20, 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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