

MINUTES
ZONING BOARD OF APPEALS
May 18, 2022

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

ABSENT: NONE

ALSO PRESENT: 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

POSTPONED ITEM:

DIZZINE/COYLE 20 Goehring Curve Blauvelt, New York 70.18/3/18; R-15 zone	SIDE YARD, TOTAL SIDE YARD REAR YARD VARIANCES APPROVED	ZBA#22-29
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NEW ITEMS:

YESARSKY 270 Washington Street Tappan, New York 77.11 / 2 / 59; R-14 zone	SECTION 5.227 REAR AND SIDE YARD VARIANCES APPROVED	ZBA#22-32
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THE RESERVE AT PEARL RIVER Veterans Memorial Drive Pearl River, New York 73.10 / 1 / 6; OP/PAC zone	§469 BUILDING HEIGHT, SIDE YARD, TOTAL SIDE YARD, VARIANCES AND § 469A (# OF UNITS) APPROVED	ZBA#22-33
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PFIZER SIGNS 401 Middletown Road Pearl River, New York 68.08 / 1 / 5; LI/LO zone	§ 3.11, COLUMN 5, PARAGRAPH 11, SIGN SIZE APPROVED	ZBA#22-34
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70-18/3/18
MAY 25 2 30 PM '22

DONNELLY
49 Flitt Street
Tappan, New York
77.12 / 1 / 5; R-15 zone

SECTION 5.227 REAR AND
SIDE YARD VARIANCES
APPROVED

ZBA#22-35

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: 262 South Boulevard Site Plan, Critical Environmental Area, Upper Grandview, NY 66.17 / 1 / 23; R-22 zone; 1118 Route 9W Plans, 1118 Route 9W, Upper Grandview, NY 71.05 / 1 / 18; R-22 zone; Asahi Site Plan; 875 Western Highway, Blauvelt, NY, 65.13 / 1 / 2; LIO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:15 P.M.

Dated: May 18, 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

TOWN CLERK'S OFFICE
2022 MAY 26 P 12:50
TOWN OF ORANGETOWN

SIDE YARD, TOTAL SIDE YARD, REAR YARD VARIANCES: (SECTION 5.21 UNDERSIZE LOT APPLIES) APPROVED

To: Chris and Kathryn Dizzine
20 Goehring Curve
Blauvelt, New York 10913

ZBA #22-29
Date: May 18, 2022
Permit #50033

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-29: Application of Kathryn Dizzine and Chris Coyle for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20' required 7' existing), 10 (Total Side Yard: 50' permitted, 37' proposed), 11 (Rear Yard: 35' required, 32' proposed) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The property is located at 20 Goehring Curve, Blauvelt New York and is identified on the Orangetown Tax Map as Section 70.18, Block 3, Lot 18; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 4, 2022 at which time the Board made the determination hereinafter set forth.

Chris Coyle and Kathryn Dizzine appeared and testified.

The following documents were presented:

1. Plans labeled "ZBA Appeal proposed Deck Land Survey for Dizzine" dated March 14, 2022 signed and sealed Robert Sorace, PLS. (1 page).
2. A letter dated April 19, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated April 12, 2022 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A no comment letter from Rockland County Highway Department signed by Dyan Rajasingham, dated April 5, 2022.
5. A no comment letter from Rockland County Health Department dated April 29, 2022 signed by Elizabeth Mello.

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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Chris Coyle testified that the previous owner had a deck that they got a variance for in 1972; that they are keeping that side yard and they need an additional few feet in the rear yard; that the deck

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2022-05-18 10:01:01
2022-05-18 10:01:01

is attached to the house and they have lived in the house for two years and they will soon be a family of four.

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 side yard, total side yard and rear 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 decks have been constructed in the neighborhood.
2. The requested side yard, total side yard and rear 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 decks 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 side yard, total side yard and rear yard variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that similar decks have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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09 00 00 2022 JUN 23 10:01 AM
2022 JUN 23 10:01 AM

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

General Conditions:

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

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

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

(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.

10-11-2022 10:00 AM
10-11-2022 10:00 AM
10-11-2022 10:00 AM

The foregoing resolution to approve the application for the requested side yard, total side yard, and rear yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, 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: May 4, 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 MAY 26 P 12:50
TOWN CLERK'S OFFICE

SECTION 5.227 ACCESSORY STRUCTURE VARIANCES APPROVED

To: Robert Yezarsky
270 Washington Street
Tappan, New York 10983

ZBA #22-32
Date: May 18, 2022
Permit #BLDR-914-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-32: Application of Robert Yezarsky for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.227 (Accessory buildings in required side or rear yard: 5' required, 0' proposed) for two existing sheds at a single-family residence. The premises are located at 270 Washington Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 59; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 18, 2022 at which time the Board made the determination hereinafter set forth.

George Garrecht appeared and testified.

The following documents were presented:

1. Site plan dated 4/8/2022 by Robert Yezarsky showing the two sheds.
2. Zoning Board of Appeals Decision #01-88 dated 9/18/2002
3. A letter from the applicant granting permission for George Garrecht to represent him at the hearing.
4. A letter dated May 2, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated April 27, 2022 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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

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; Mr. Quinn, aye; and Mr. Valentine, aye.

George Garrecht testified that Robert Yezarsky had a family emergency he needed to take care of and could not be present; that the lot is undersized; that the width of the lot is 50' and is completely fenced in with a six foot fence; that there is a swimming pool in the back yard; that there are two sheds; one is in the left rear corner of the property which is 10' x 8' which holds pool supplies and patio furniture and one on the right corner of the property which is 8' x 12' which holds lawn supplies and mowers; that if the sheds were moved closer together they would be too close to the pool; that the house was recently sold and the buyers would like to keep the sheds; that there has not been any complaints from neighbors and the property behind the house is all woods.

APPROVED AND
FORWARDED:
TOWN OF ORANGETOWN
ZONING BOARD OF APPEALS

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 5.227 accessory structure rear and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that other sheds have been constructed in the neighborhood.
2. The requested Section 5.227 accessory structure rear and side yard variance 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 other sheds 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 Section 5.227 accessory structure rear and side yard variances although quite 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 the undersized lot and noted that other sheds 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.

APPROVED: [Signature]
[Date]
[Title]

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.227 accessory structure side and rear 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.


12-14-22 10:30 AM

The foregoing resolution to approve the application for the requested Section 5.227 accessory structure side and rear yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Quinn, seconded by Ms. Castelli 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: May 18, 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 MAY 26 P 12:51
TOWN CLERK'S OFFICE

SECTION 469: BUILDING HEIGHT, SIDE YARD, TOTAL SIDE YARD, AND SECTION 469A(NUMBER OF UNITS) VARIANCES APPROVED

To: Donald Brenner (The Reserve)
4 Independence Avenue
Tappan, New York 10983

ZBA #22-33
Date: May 18, 2022
Permit #BLDR-90-2021

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-33: Application of The Reserve at Pearl River for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, OP/PAC District, Article IV, Section 4.6 Adult Community (PAC Floating Zone from Section 4.69: Table 1, Maximum Height: (two stories or 25' permitted: three stories proposed) : Side Yard: (100' required, 50' proposed) and Total Side Yard: (200' required, 194' proposed) and from Section 469 A (110 units proposed: 85 units permitted) for the construction of 110 senior rental units. The property is located at Veterans Memorial Drive, Pearl River, New York and is identified on the Orangetown Tax Map as Section 73.10, Block 1, Lot 6; in the OP/PAC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 18, 2022 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Diego Villareale P.E. Associate Principal, JMC, and Seth Cohen, Vice President, BNE Real Estate, appeared and testified.

The following documents were presented:

1. Plans labeled "The Reserve at Pearl River" dated October 29, 2021 with the latest revision date of 03/07/ 2022 signed and sealed by Diego A. Villareale, P.E, including C-000 Cover Sheet; C-010 Existing Condition; C-100 Overall Layout Plan; C-110 Layout Plan; C-200 Grading Plan; C-300 Utilities Plan.
2. Plans labeled " Preliminary and Final Site Plan submission for Pearl River Phase III" dated 11/22/2021 by Minno Wasko Architects and Planners, not signed or sealed; C-01 Cover Sheet; A-01 Architectural Site Plan; A-02-Basement Floor Plan Type A; A-03 Ground Floor Plan Type A; A-04- Second Floor Plan Type A; A-05- Building Elevations Type A; A-06- Basement Floor Plan Type B; A-07- Ground Floor Plan Type B; A-08- Second Floor Plan Type B; A-09- Building Elevations; A-1- Typical Unit Plan; A-10 Typical Unit Plans; A-11 Clubhouse Floor Plan; A-12 Clubhouse Elevation.
3. Planning Board Decision #22-05 dated February 23, 2022 Permit #50255.
4. A memorandum dated February 4, 2022 revised February 7, 2022 from Jane Slavin. RA, Director, Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown.
5. Entity Disclosure form.
6. Project narrative.
7. A letter dated May 3, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning (4 pages).
8. A letter dated April 27, 2022 from Rockland County Highway Department signed by Dyan Rajashingham, Engineer III.
9. A letter dated May 17, 2022 from Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E.

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on February 23, 2022 (as set forth in PB#22-06) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye.

Donald Brenner, Esq., submitted a booklet presentation entitled "Zoning Board, Town of Orangetown: The Reserve at Pearl River, LLC, Pearl River, New York; BNA Real Estate Group, Area Variances; May 2022" consisting of 15 pages.

Donald Brenner testified that this project appeared before the Town Board for a required zone change from OP to PAC, Planned Adult Community and received this change on July 13, 2021; and then on February 15, 2022 the Town Board reviewed the Site plan submitted to the Planning Board prior to Preliminary "Approval by them (in accordance with Town Code Chapter 43, Section 4.612(D): that the Town Board reviewed the Plan and determined that the submitted plan did not substantially deviate with the final concept plan presented and reviewed by the Town Board in July of 2021; and further clarifying that although the Town Board had previously authorized a maximum unit count of 110, that upon review of the zoning bulk table and the determination of the Director of OBZPAE that the maximum permitted number of units is 85. If the applicant wanted more than the permitted number of units, the applicant was to see appropriate relief from the ZBA. That the applicant then provided a detailed Site Plan to the Orangetown Planning Board and obtained Environmental Approval (Negative Declaration+ and Preliminary Approval with instructions to appear before the Zoning Board for necessary variances.

This information supplied to the board is included in the book presentation; that this type of project and the Developer are not new to our community; that the Developer constructed the first section known as The Point (Club 1), which has 160 units, a full club house, an outdoor swimming facility, and also preserved the "Seth House" for a community meeting facility. The residents that live there are primarily Orangetown Residents who have been fortunate to live in our community for many years, found that keeping their homes was expensive and difficult to maintain, and wanted to stay in Orangetown (see Appendix A - Resident Letters); that the Club 1 units are completely rented, and have a waiting list; that the second section known as Club West (Club 2) has 104 units, is being completed, and will open in May of this year; that this facility has a full list for residents who wish to live there; that this section has its own independent club house and Reserve at

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10/10/2021 10:10:00 AM

independent outdoor swimming facility; that Club 1 appeared before the Town Board for a zone change and the necessary Boards for approval in 2006-2007, was constructed in 2012, and fully rented; that Club 2 appeared before the Town Board for a zone change and the necessary Boards for approval in 2018-2019, was constructed in 2020-2022, and is on its way to being fully rented.

The last parcel of land (The Reserve or Club 3) which can provide this needed type of adult community facility is located just to the south of Club 2, and is now before your Board. This facility is projected to also have its' own independent club house and independent outdoor swimming facility. Based on historical data, and the Developer's prior approvals, the project should receive the required approvals this year, be constructed in 2023-2024, and provide the needed units for the area.

Donald Brenner, Esq., testified that factors supporting the proposed project and the need for area variances included:

(A) ECONOMICS

Club 1-The Pointe -Taxes before the project:\$ 315,107.35
Taxes collected this year: \$ 880,606.67

Club 2 -Taxes before the project;\$ 194,513.57
Taxes {partial) collected this year: \$ 384,112.98

Reserve (Club 3) - Taxes before the project\$ 156,779.37
Taxes projected \$ 506,542.00
Note: This does not include Special District and Use Taxes.

and

(B) RELEVANT ITEMS

That the Board is well aware of the financial difficulties our area has been experiencing for the past several years. The community's Senior Citizens who are able to sell their homes and do not wish to re-invest the proceeds in homes in a Planned Adult Community, but want to stay in our community, are seeking apartment rentals. The Seniors wish to continue and enjoy their life style with their friends, as well as their children who live here.

Club 1 and Club 2 provided a well-balanced Senior living facility, which are economically sound and include their social needs. The Developer, (BNE) who constructed Club 1 and Club 2, manage nearly 8,000 apartment units in our area. Therefore, in order to provide the amenities in line with those provided at Club 1 and Club 2, they are requesting the additional units for The Reserve (Club 3).

The land area for the three projects total 93.54 acres. The total impervious cover is 19.97 acres, leaving a total "Green Space" area of 73.57 acres which nets 8,569 sq. ft. of Green Space per apartment unit.

Comparing this to other projects in the area: The Benjamin Ridgewood (60 apartments built in 2021) has a Green Space area of 53 sq. ft. per apartment. The NoMa, Ridgewood (39 apartments built in 2021) has a Green Space area of 78 sq. ft. per apartment. The Hillside Club, Livingston (80 apartments built in 2017) has a Green Space area of 300 sq. ft. per apartment.

Further, the topography of this site, the cost of construction, the desire to provide necessary open space, and the Developer's commitment to renting the units in a price range which our community supports, establishes the need for the additional units; and for further explanation I will turn it over to Diego Villarreal, P.E.

Diego Villanelle, P.E., testified that he the worked on the first two phases of the project; and is very familiar with the project; that phase 2 is almost complete; that the 22 ½ acres of property just to the south of project 2 is very similar to phase 1, it slopes down to wetlands; that this proposal is for 110 residential units within four buildings and provides a clubhouse and a swimming facility;; that the layout will be similar and the design is intentionally blending with the other phases and it is designed to fit with the hillside; that the access is off of a road in Bluehill Plaza; that the clubhouse has its own dedicated parking area; that the driveway loops around a lot of the common areas and there is a lot of walking spaces and sidewalks throughout that connect all of the buildings and it is ADA designed; there is access to pickleball, a dog run, and the pool, etc.;; that there is 34,000 sq. ft. of open space with rec room , 275 parking spaces, some with garages and some surface parking; that the emergency/utility access is gated; that the landscaping is similar to Phase 1; and the appearance is high quality; that they are asking for three stories (at thirty -five (35') feet) which is the same as the previous phase; and this is due to the topography of the property; the buildings are being built into the hillside; and this allows minimal disturbance to the property; that the number of units allows the property owner to cover the cost for all of site plan improvements that are necessary for developing the lot, such as stormwater management plan with the system collecting and treating the water; that many green practices such as annual inspections on the below grade basins and stormwater systems that Bruce Peters, P.E, from the Town DEME approved; that fifty 50% percent of the wooded area is being preserved that the letter from the County (Planning Department) is talking about condos not rentals and that a traffic study was done.

Seth Cohen, Vice President , BNE, testified that he is the one that prepared the report that Donald handed out to the Board; that he wanted to provide the same level of amenities as the other phases of the development; that the amenities cost money to maintain; that the difference between 86 units and 110 units would be \$2,000.00 per unit; that salaries cannot be cut, that trash is a fixed cost; that they cannot allow this phase to share amenities with the first phases because that diminishes their amenities of the individual phases; that the amenities would be the same size and quality of the first and second phase of the development; that the cost of construction materials have gone up 49%; that the rent is not absolute but they are estimating \$2,100 a month for one bedroom, possibly mid 2000's for a two bedroom; and the leases are 12 of 24 months, with a 3% increase when the lease is up; and that the rents would be comparable the rents in Phase 2. That there were 160 units in Phase 1 (Club1) and 104 units in Phase 11 (Club 2).

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.

Mr. Sullivan made a motion to over-ride #1 of the comments on the Rockland County Department letter dated May 3, 2022 because the Board disagrees that the applicant is not providing the town with any benefits for the additional 25 units; the applicant is providing the town with additional green space for use by the seniors that rent units in the development and that the developer is also providing recreational space for those units, in the form of pickleball court, walking areas connecting all of the buildings, a dog run area, and a pool. In addition, the applicant stated for the record and in the booklet submitted by Mr. Brenner, the applicant clearly states that the land area for all three projects totals 93.54 acres; 19.97 acres total impervious surface; 73.547 acres of "green space". Another benefit to the Town is the taxes that will be collected from these properties, which is less per unit than homeowners were paying on their individual homes, a plus for them and the town; and added an over-ride comments # 2 and #3 because the Zoning Board agrees with the Planning Board's override; and to over-ride Comment #6 because the Planning Board is LEAD Agency for this project; and Comments #11, #12 and all of #14 were taken into consideration as a comment; 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 469 building height, side yard, total side yard and Section 469A (number of units) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar units have been constructed in the neighborhood, which is closer to commercial high-rise buildings than to residential structures in the area. Across the street from this development are condominium units and Town houses and a hotel. This is the third installment in this type of housing construction in the area and the apartments have been rented in full capacity since the beginning of occupancy and there is already a waiting list for the units that have not been constructed in Phase III. The land area for all three projects totals 93.54 acres; 19.97 acres total impervious surface; 73.547 acres of "green space"; which is a benefit environmentally for the Town.
2. The requested Section 469 building height, side yard, total side yard and Section 469A (number of units) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar units have been

constructed in the neighborhood, which is closer to commercial high-rise buildings than to residential structures in the area. Across the street from this development are condominium units and Town houses and a hotel. This is the third installment in this type of housing construction in the area and the apartments have been rented in full capacity since the beginning of occupancy and there is already a waiting list for the units that have not been constructed in Phase III. The land area for all three projects totals 93.54 acres; 19.97 acres total impervious surface; 73.547 acres of "green space"; which is a benefit environmentally for the Town.

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 Section 469 building height, side yard, total side yard and Section 469A (number of units) 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. Similar units have been constructed in the neighborhood, which is closer to commercial high-rise buildings than to residential structures in the area. Across the street from this development are condominium units and Town houses and a hotel. This is the third installment in this type of housing construction in the area and the apartments have been rented in full capacity since the beginning of occupancy and there is already a waiting list for the units that have not been constructed in Phase III. The land area for all three projects totals 93.54 acres; 19.97 acres total impervious surface; 73.547 acres of "green space"; which is a benefit environmentally for the Town.
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.
6. The Board unanimously over-rode #1 of the comments on the Rockland County Department of Planning letter dated May 3, 2022 because they disagree that the applicant is not providing the town with any benefits for granting the additional 25 units; the applicant is providing the town with additional greenspace for use by senior that rent units in the development; that it is also providing recreational space for those units, in the form of pickleball court, walking areas connecting all of the buildings; a dog run area; and a swimming pool. Another benefit to the Town is the taxes that will be collected from these properties, which is less per unit than homeowners were paying on their individual homes, a plus for them and the town.
7. The Board unanimously over-rode #2 and #3 of the Rockland County Department of Planning letter dated May 3, 2022. The Zoning Board concurs with the Planning Board's over-ride of Rockland County Department of Planning letter (dated January 21, 2022) contained in PB#22-06; which determinations are contained on page 19 of PB #22-06.
8. Rockland County Department of Planning letter dated May 3, 2022, Comment #6 is unanimously over-ridden because the Planning board is LEAD Agency for this project.
9. Rockland County Department of Planning letter dated May 3, 2022, Comments #11, #12, and all of #14 were taken into consideration as a comment.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 469 building height, side yard, total side yard and Section 469A (number of units) variances are APPROVED; and the comments from the Rockland County Highway Department letter dated April 27, 2022 signed by Dyan Rajasingham, Engineer III and the letter dated May 17, 2022 from Rockland County Department of Health signed by Elizabeth Mello, P.E., must be addressed; and the applicant has stated verbally and in the book submitted entitled "Zoning Board, Town of Orangetown: The Reserve at Pearl River LLC; Pearl River, New York; BNE Real Estate Group, Area Variances: May 2, 2022" consisting of 15 pages that the land area for all three projects totals 93.54 acres; 19.97 acres total impervious surface; 73.547 acres of "green space"; which is a benefit environmentally for the Town; was presented and moved by Mr. Sullivan the 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.

The foregoing resolution to approve the application for the requested Section 469 building height, side yard, total side yard and Section 469A (number of units) variances APPROVED and the comments from the Rockland County Highway Department letter dated April 27, 2022 signed by Dyan Rajasingham, Engineer III and the letter dated May 17, 2022 from Rockland County Department of Health signed by Elizabeth Mello, P.E. and the applicant has stated verbally and in the book submitted entitled “ Zoning Board, Town of Orangetown: The Reserve at Pearl River LLC; Pearl River, New York; BNE Real Estate Group, Area Variances: May 2, 2022 “ consisting of 15 pages that the” land area for all three projects totals 93.54 acres; 19.97 acres total impervious surface; 73.547 acres of “green space”; which is a benefit environmentally for the Town.; 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, 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: May 18, 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 CLERK'S OFFICE
2022 MAY 26 P 12:51
TOWN OF ORANGETOWN

SECTION 3.11 ,COLUMN5, PARAGRAPH 11, SIGN SIZE VARIANCE APPROVED

To: John Parente (Pfizer signs)
401 North Middletown Road
Pearl River, New York 10965

ZBA #22-34
Date: May 18, 2022
Permit #51973

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-34: Application of Pfizer for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LO/LI District, Section 3.11, Column 5, Paragraph 11 (30 sq. ft. permitted; 177.6 sq. ft. proposed for three new signs for a total of 353.4 sq. ft. total) for signs on the campus. The property is located at 401 N. Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 5 in the LO/LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 18, 2022 at which time the Board made the determination hereinafter set forth.

John Parente and Nicole Vogel ,CLN Signs and Awnings, appeared and testified.

The following documents were presented:

1. Plans labeled "Global Research and Development Pfizer Signage Plan" dated January 6, 2022 with the latest revision date of January 28, 2022.
2. A letter dated May 3, 2022 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A no future correspondence comment from Rockland County Highway Department signed by Dyan Rajasingham, dated April 29, 2022.
4. A letter dated April 27, 2022 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
5. A letter visibility Chart submitted by applicant at hearing.
6. A plan marked at the hearing showing an existing monument sign that is not part of the application.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo 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 based on the testimony heard by the Board, and the facts as presented in the application, submissions and in the record, since this application seeks area or bulk variances for construction or expansion of a primary or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, this application is exempt from environmental review under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9); 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.

John Parente, sign contractor, testified that they are applying for three signs; that each sign is 59.28 sq. ft. and the total square footage of signage for all three signs will be 177.6 sq. ft. that two of the signs are for interior buildings on the campus; that Pfizer wants to identify the individual buildings on the property as more than just the building number of 222 or 200; that this is about branding the buildings; that the signs are channel signs welded aluminum and white LED with white acrylic overlay color; that at night the background is black and the letters are white and during the day the background in white and the letters are colored blue; that the building is 460 feet from the property line and even further from the road; that the "P" in Pfizer on the signs is twenty-four (24") inches high, and the Pfizer logo is four(4') to five (5') inches high; that the existing monument signs are not being changed.

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 sign area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed signs are necessary to give direction to visitors and to companies leasing spaces in the buildings on the entire campus. (that had previously been owned and operated by one by one pharmaceutical company.
2. The Board acknowledged the disapproval from Rockland County Department of Planning GML review in the letter dated May 2, 2022 unanimously voted to override the denial because two of the three proposed signs are for buildings within the campus that are barely visible from the road; and since the campus is no longer being occupied by one company, it is important to brand the buildings with the proper company names.
3. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood. The proposed signs are necessary to give direction to visitors and to companies leasing spaces in the buildings on the entire campus. (that had previously been owned and operated by one by one pharmaceutical company.

4. The Board unanimously voted to over-ride #2 and #3 of the Rockland County Department of Planning letter dated My 2, 2022 because the signage being requested for variances is 177.6 square feet for three signs, two of which are interior to the campus and barely visible from the road, and necessary since the campus is no longer being used by a single pharmaceutical company, and because the Rockland County Highway Department sent the Board a sign off for no further correspondence for this site dated April 27, 2022.
5. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
6. The requested 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. The proposed signs are necessary to give direction visitors and to companies leasing spaces in the buildings on the entire campus. (that had been previously owned and operated by one was owned and operated by one pharmaceutical company.
7. 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 sign size variances 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.

The foregoing resolution to approve the application for the requested sign size variance and to override the Rockland County Department of Planning letter dated May 3, 2022 is APPROVED; was presented and moved by Ms. Castelli, 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: May 18, 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-

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

TOWN CLERK'S OFFICE
2022 MAY 26 P 12:52
TOWN OF ORANGETOWN

SECTION 5.227:ACCESSORY STRUCTURE SETBACK VARIANCE APPROVED

To: Leo Donnelly
49 Flitt Street
Tappan, New York 10983

ZBA #22-35
Date: May 18, 2022
Permit #BLDR-927-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-35: Application of Leo Donnelly for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.227 (Accessory Structures set back to side and rear yard: 5' required, 2' proposed) for a detached deck at an existing single-family residence. The Premises are located at 49 Flitt Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 5; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 18, 2022 at which time the Board made the determination hereinafter set forth.

Leo Donnelly appeared and testified.

The following documents were presented:

1. Plans labeled "Survey with deck drawn on it" dated April 6, 2022 drawn by Thomas Nevins.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo 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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Leo Donnelly testified that they would like to build a deck about one foot off the ground in back yard where there is shade; that they also do not want to built it too close to the pool; that it would be for himself and his wife to enjoy their grandchildren in the shade; that they have owned this home since 1999 and the pool is in the center of the yard.

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.

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 5.227 Accessory Structure Distance to side/rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the lot is an uneven shape and slopes and noted that other properties in the neighborhood have had decks constructed.
2. The requested Section 5.227 Accessory Structure Distance to side/rear yard 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 is an uneven shape and slopes and noted that other properties in the neighborhood have had decks constructed.
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 5.227 Accessory Structure Distance to side/rear yard variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the lot is an uneven shape and slopes and noted that other properties in the neighborhood have had decks constructed.
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 5.227 Accessory Structure Distance side/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.

The foregoing resolution to approve the application for the requested Section 5.227 Accessory structure Distance side/ rear yard variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

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

DATED: May 18, 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-Ken.L.

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

TOWN OF ORANGETOWN
2022 MAY 26 P 12:52
TOWN CLERK'S OFFICE