

MINUTES
ZONING BOARD OF APPEALS
October 5, 2022

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

ABSENT: BILLY VALENTINE

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

NEW ITEMS:

ALATSAS 11 Bergen Avenue Palisades, New York 77.20 / 2 / 85; R-15 zone	24' FRONT YARD VARAINCE APPROVED TO THE THIRD RISER OF THE STAIRS	ZBA#22-64
---	---	-----------

BRENNER 18 Kim Court Tappan, New York 74.18 / 2 / 28; R-15 zone	REAR YARD VARIANCE APPROVED AS PRESENTED	ZBA#22-65
--	---	-----------

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: Levine Site Plan, Critical Environmental Area, 39 Tweed Boulevard, Upper Grandview, NY 71.09 / 1 / 40; R-22 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

[Faint, illegible text]

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 7:45 P.M.

Dated: October 5, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By



Deborah Arbolino, Administrative Aide

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

TOWN OF ORANGETOWN
2022 OCT 11 A 11:54
TOWN CLERK'S OFFICE

FRONT YARD VARIANCE APPROVED AS MODIFIED TO 24' TO THIRD RISER

To: Jay A. Greenwell, PLS (Alatsas)
34 Wayne Avenue
Suffern, New York 10901

ZBA #22-64
Date: October 5, 2022
Permit #BLDR-000321-2021

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-64: Application of George Alatsas for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 8 (Front Yard: 30' required, 28.5' existing as modified to the third riser [24']) for a new single-family residence that received variances granted in ZBA#21-67. The premises are located at 11 Bergen Avenue, Palisades, New York and are identified on the Orangetown Tax Map as Section 77.20, Block 2, Lot 85; R-15 zoning district.

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

George Alatsas and Jay Greenwell, L.S., appeared and testified.

The following documents were presented:

1. Plans labeled "Foundation Location Survey Alatsas 11 Bergen Avenue" dated July 1, 2022 with the latest revision date of 08/15/ 2022 signed and sealed by Jay A. Greenwell, PLS. (1 page).
2. A cover letter dated August 18, 2022 from Jay A. Greenwell.
3. Planning Board Decisions #21-12 dated February 24, 2021, PB#21-33 dated May 26, 2021 and PB#22-01 dated January 12 2022.
4. ACABOR Decision #21-25 dated July 22, 2021.
5. ZBA Decision #21-67 dated July 7, 2021.

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

Jay Greenwell, Land Surveyor testified that this is a bit of an embarrassing situation; that the Architect showed a five foot bump out on the plans; that his guys in the field took it from the lower level only and never recognized the second floor; that the draftsman didn't catch the error and he didn't either; that this is the second time in thirty years that this has happened and he apologized; that it was already framed out as a two-story entry with closets on either side and could not be easily changed.

The Board had a discussion regarding the building department measuring the yards to the third riser of the front steps on previous applications and decided to grant the front yard variance to the third riser which would give the applicant a 24' setback; the Board stated that this should be consistent.

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 front yard variance as modified to the third riser (24') will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other houses in the neighborhood have similar front yard set-backs.
2. The requested front yard variance as modified to the third riser (24') will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses in the neighborhood have similar front yard set-backs.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

The requested front yard variance as modified to the third riser (24') 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. Other houses in the neighborhood have similar front yard set-backs.

4. 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]
[Signature]
[Signature]

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard variance as modified to the third riser (24') 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 front yard variance as modified to the third riser (24') is APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Valentine was 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: October 5, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-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 OCT 11 A 11:54
TOWN OF ORANGETOWN

REAR YARD VARIANCE APPROVED

To: Donald Brenner
4 Independence Avenue
Tappan, New York 10983

ZBA #22-65
Date: October 5, 2022
Permit #BLDR-1953-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-65: Application of Debra Brenner for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 11 (Rear Yard: 35' required, 30.6 existing & proposed) for an existing deck at an existing single-family residence. The property is located at 18 Kim Court, Tappan, New York and is identified on the Orangetown Tax Map as Section 74.18, Block 2, Lot 28; in the R-15 zoning district.

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

George Alatsas appeared and testified.

The following documents were presented:

1. Plans labeled "Survey of Property for Brenner" dated June 27, 2022 signed and sealed by Jay A. Greenwell, PLS. (1 page).
2. An email from Donald Brenner giving George Alatsas permission to represent Debra Brenner in the matter.
3. C of O dated June 27, 1968 for the house.
4. A color photograph of the existing house with the original deck.

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

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

George Alatsas testified that the house had the deck when Debra Brenner purchased it in June 2022; that she applied for a permit to replace windows and doors and to repair the deck; that she was told that the deck required a variance even though the deck existed on the site plan and was shown as part of the original certificate of occupancy for the house; that the deck was in poor condition and was dismantled when the new siding was installed on the house; and that the existing footings would be used for the new deck.

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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks exist in the neighborhood.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks exist in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested rear yard variance is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar decks exist in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

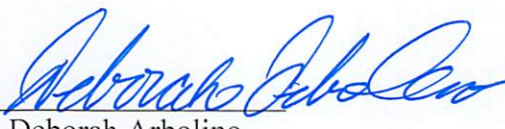
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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 rear yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Bonomolo, aye. Mr. Valentine was 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: October 5, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE
2022 OCT 11 A 11:54
TOWN OF ORANGETOWN