

MINUTES  
ZONING BOARD OF APPEALS  
November 16, 2022

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

ABSENT: DAN SULLIVAN, CHAIRMAN

ALSO PRESENT: Deborah Arbolino, Administrative Aide  
Denise Sullivan, Deputy Town Attorney

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 ITEM:

KENNEDY  
110 Ehrhardt Road  
Pearl River, New York  
69.09 / 4 / 12; R-15 zone

ACCESSORY STRUCTURE  
DISTANCE VARIANCE APPROVED

ZBA#22-72

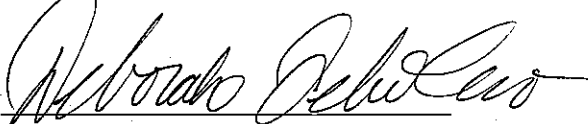
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 7:30 P.M.

Dated: November 16, 2022

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN CLERK'S OFFICE  
2022 NOV 21 P 12:13  
TOWN OF ORANGETOWN

**ACCESSORY STRUCTURE DISTANCE TO SIDE/REAR YARD VARIANCE  
APPROVED**

To: Beth Kennedy  
110 Ehrhardt Road  
Pearl River, New York 10965

ZBA #22-72  
Date: November 16, 2022  
Permit #BLDR-1927-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-72: Application of Beth and Michael Kennedy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.227 (Accessory Structure distance to side/rear yard) at an existing single-family residence. The premises are located at 110 Erhardt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 4, Lot 12; R-15 zoning district.

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

Beth Kennedy appeared and testified.

The following documents were presented:

1. Plot plan based on a survey done by Dillin Suarez dated 01/28/1983 with the proposed shed drawn on it by Beth Kennedy.
2. A letter dated October 24, 2022 from Eric Foote, Junior Warden, St. Stephens Episcopal Church in support of the variance.
3. A letter dated October 26, 2022 from Bardh Marka, 113 Ehrhardt Road in support of the application.

Ms. Castelli, Acting Chair, 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, Ms. Castelli 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. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Valentine, aye. Mr. Sullivan was absent.

Beth Kennedy testified that she would like install a 5'x 10' shed along side her driveway, 15' away from the garage as required; that in order to do this she needs a variance to have the shed ½ foot from the property line of the driveway for St. Stephens Church, her neighbor; that the reason she is requesting this is because they just installed a patio behind the house and need a space to store the outdoor furniture; that the house is built on a slab; that the property is on the curve a road and has multiple front yards; that they have invested in really nice landscaping and this is the most practical place for the shed; that it would be a custom shed with windows and flower boxes and would enhance the property; that it is 8' high and that there is really is nowhere else to place it without disturbing the existing landscaping or new patio and that the neighbors most affected by it have submitted letters in support of its placement on the property.

The Board discussed other options for placement of the shed because they are not in the habit of granting variances for only ½ foot from the property line; that the applicant would not need a building permit for the size shed that she is proposing if it could be five foot from the property line; that the property does have multiple front yards; that it is fully landscaped and well kept and the neighbors most affected by the proposed placement of the shed are in support of it.

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 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. Although this is request for an accessory structure to be 6 inches from the property line is extremely large; the circumstances for this request are unique. The property is a corner lot with multiple front yards and has already been beautifully landscaped, its driveway abuts the driveway of Saint Stephens Church and that is where the applicant is requesting to place the shed, 6 inches from her fence, which abuts the churches fence; and the church and the neighbor across the street, most affected by the installation, wrote letters in support of the application. The Board also noted that this size shed would not require a building permit if it were installed five feet from the rear or side yard.
2. The requested 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. Although this is request for an accessory structure to be 6 inches from the property line is extremely large; the circumstances for this request are unique. The property is a corner lot with multiple front yards and has already been beautifully landscaped, its driveway abuts the driveway of Saint Stephens Church and that is where the applicant is requesting to place the shed, 6 inches from her fence, which abuts the churches fence; and the church and the neighbor across the street, most affected by the installation, wrote letters in support of the application. The Board also noted that this size shed would not require a building permit if it were installed five feet from the rear or side yard.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested accessory structure distance to rear/side 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. Although this is request for an accessory structure to be 6 inches from the property line is extremely large; the circumstances for this request are unique. The property is a corner lot with multiple front yards and has already been beautifully landscaped, its driveway abuts the driveway of Saint Stephens Church and that is where the applicant is requesting to place the shed, 6 inches from her fence, which abuts the churches fence; and the church and the neighbor across the street, most affected by the installation, wrote letters in support of the application. The Board also noted that this size shed would not require a building permit if it were installed five feet from the rear or side yard.

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 accessory structure distance to rear or side yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


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The foregoing resolution to approve the application for the requested accessory structure distance to side or rear yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; and Mr. Quinn, aye. Mr. Sullivan 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: November 16, 2022

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-Ken. L.

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

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