

MINUTES  
ZONING BOARD OF APPEALS  
April 4, 2023

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN  
PATRICIA CASTELLI,  
BILLY VALENTINE  
ROBERT BONOMOLO, JR.

ABSENT: THOMAS QUINN  
MICHAEL BOSCO

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:

80 OLD MOUNTAIN ROAD SOUTH  
80 Old Mountain Road South  
Upper Grandview, New York  
71.05 / 1 / 30; R-22 zone

FRONT YARD VARIANCE  
APPROVED

ZBA#23-14

PEARL RIVER CAR WASH  
558 North Middletown Road  
Pearl River, New York  
64.17 / 1 / 77; CO zone

SECTION 5.22; OBSTRUCTION ZBA#23-15  
IN REQUIRED YARD APPROVED  
OVERRIDE #3,#4 & #5 OF ROCKLAND  
COUNTY PLANNING DEPARTMENT  
LETTER DATED MARCH 31, 2023

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.

TOWN CLERK'S OFFICE  
2023 APR - 6 P 12:09  
TOWN OF GRANGETOWN

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: Dish Wireless Facility Co-location at Existing Base Station-Rooftop Plan, 1-4 Salisbury Point, South Nyack, NY 66.78 / 1 / 27; SN-HRA-LO zone; 500 Bradley Hill Road Site Plan-Accessory Trailer Storage Parking Lot, 500 Bradley Hill Road, Blauvelt, NY 65.18 / 1 / 19; LI zone; Arango Retaining Wall Replacement Site Plan, 118 Hillside Avenue, South Nyack, NY, 65.52-1-5; RG-8H/R-12H zone; Gatto Lane Site Plan, Gatto Lane, Pearl River, NY, 68.07 / 2 / 1 PAC/ R-22 zone; Pfizer Pearl River Project Vitality Site Plan, 401 North Middletown Road, Pearl River, NY 68.08 / 1 / 5; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings.

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: April 4, 2023

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  
2023 APR -6 P 12:09  
TOWN CLERK'S OFFICE

## FRONT YARD VARIANCE APPROVED

To: Robert Silarski (80 Old Mountain)  
S& Co Architecture & Design  
41A North Broadway  
Nyack, New York 10960

ZBA #23-14  
Date: April 4, 2023  
Permit #49159

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-14: Application of 80 Old Mountain Road South for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Column 8 (Front Yard: 40' required, 15.7' existing & proposed) for an existing deck at an existing single-family residence. The premises are located at 80 Old Mountain Road South, Upper Grandview, New York and identified on the Orangetown Tax Map as Section 71.05, Block 1, Lot 30 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 4, 2023 at which time the Board made the determination hereinafter set forth.

Robert Silarski, Architect, appeared and testified.

The following documents were presented:

1. Plan labeled "Subdivision of Josephine R. Frederiksen dated 12/10/ 86 Map # 6172 Bk 109 P4.
2. Survey dated May 22, 2019 with the latest revision date of 4/1/2020 not signed or sealed by Anthony R. Celentano P.L.S..
3. Plans labeled "Existing Deck @Greaney Residence 80 Old Mountain Road, Grandview, New York dated June 7, 2022 with the latest revision date of October 22, 2022 signed and sealed by Robert Silarski, Architect.
4. A memorandum dated December 21, 2022 from Jane Slavin, RA., Director, O.B.Z.P.A.E, Town of Orangetown.
5. A cover letter dated February 7, 2023 from Robert Silarski, Architect.( 2 pages)
6. Planning board decision, PB#19-77 dated January 11, 2023.
7. A letter dated March 31, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
8. A letter dated March 29, 2023 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
9. A "No comments at this time" from Rockland County Highway, and Rockland County Department of Health.

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 December 11, 2019 (as set forth in PB#19-77), and as reaffirmed by PB#19-77 on January 11, 2023, 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. Valentine, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bonomolo, aye. Mr. Bosco and Mr. Quinn were absent.

TOWN OF ORANGETOWN

Robert Silarski testified that the subject property is located at 80 Old Mountain Road South in Upper Grandview and consists of a single-family home with an attached wood deck that surrounds an existing tree; that the deck was built without a permit by the previous owners of the property and the application has been reviewed by the Planning Board; that an undesirable change will not be produced in the character of the neighborhood, not a detriment created to nearby properties by the granting of the variance; that the undeveloped adjoining parcel at the southwest corner between the front yard of 80 Old Mountain Road South and 86 Old Mountain Road South which is also owned by the Greaney's and the deck also forms a buffer between the subject property and Old Mountain Road South; that the benefit sought cannot be achieved by some method feasible for the applicant to pursue, other than an area variance; that there is no feasible method by which the benefit can be achieved other than demolishing the existing deck, which would yield a front yard of 30.1', still less than the 40' required by the code; that the requested variance is not substantial; that the proposed front yard will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; that the deck has existed at least since the Greaney's acquired the property in June 2019 and most certainly for a prior considerable period, and did not involve the creation of additional impermeable surfaces or increase the load on utility or community services; and that the alleged difficulty was not self-created because the deck was constructed prior to the Greaney's ownership of the property; and based on all this information we respectfully request the Board grant the requested front yard variance.

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. Valentine 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 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has existed in its present location for a minimum of ten years without incident and the property was subdivided in 1988 creating a very irregular shaped lot.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The deck has existed in its present location for a minimum of ten years without incident and the property was subdivided in 1988 creating a very irregular shaped lot.
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 front 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. The deck has existed in its present location for a minimum of ten years without incident and the property was subdivided in 1988 creating a very irregular shaped lot.
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 front 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 front yard variance is APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bonomolo and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: April 4, 2023

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-N.A.

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

TOWN OF ORANGETOWN  
2023 APR - 6 P 12: 07  
TOWN CLERK'S OFFICE

**SECTION 5.22 VARIANCE APPROVED  
OVERRIDE #3, #4, & #5 ROCKLAND COUNTY DEPARTMENT OF PLANNING  
LETTER DATED MARCH 31, 2023**

To: Bart Rodi (Pearl River Car Wash)  
234 South Grant Avenue  
Congers, New York 10920

ZBA #23-15  
Date: April 4, 2023  
Permit #BLDR-2654-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-15: Application of Pearl River Car Wash for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CO District, Section 5.22 Permitted obstruction in required yards, courts and usable open spaces: All required yard, courts and usable open spaces shall be unobstructed except as provided in this section. ( Since required yards, courts and usable open spaces shall be open to the sky, an obstruction shall include the projection of a structure into such space at any level aboveground) for the installation of new vacuums and relocation of vending machines at the existing carwash. The premises are located at 558 North Middletown Road, Pearl River, New York and identified on the Orangetown Tax Map as Section 64.17, Block 1, Lot 77 in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 4, 2023 at which time the Board made the determination hereinafter set forth.

Timothy Weigel and Bart Rodi appeared and testified.

The following documents were presented:

1. Site plan dated October 24, 2022 with the latest revision date of January 2, 2023 signed and sealed by Bart M. Rodi, P.E. ( 3 pages).
2. A Short Environmental Assessment Form.
3. ZBA Decision #10-08 dated February 3, 2010, ZBA Decision # 20-03 dated February 5, 2020.
4. A letter dated March 31, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning. ( 2 pages)
5. A letter dated March 29, 2023 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated March 9, 2023 from the Town of Clarkstown Planning Board.
7. A "No comments at this time" from Rockland County Department of Health and Rockland County Highway Department.
8. Three color 8x10 pictures submitted by the applicant.

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 seeks area or bulk variances for construction or expansion of 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 the State Environmental Quality Review Act (SEORA), pursuant to SEORA Regulations §617.5 (c) (9); which does not require SEORA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Ms. Castelli, aye; Mr. Bonomolo, aye; and Mr. Sullivan, aye. Mr. Quinn and Mr. Boseo were absent.



Bart Rodi, Engineer for the project, testified that the existing vacuums are 30 years old and are in constant need of maintenance; that they have individual motors and the new proposed vacuums operate off one motor that is installed behind a fence on the side of the building; that the vending machines are moved but do not require a variance; that they would also like to request several over-rides from the Rockland County Department of Planning letter dated March 31, 2023; that #3 needs an override because all of the details for structural elements have been submitted to the building inspector; that #4 needs an over-ride because the vacuums are not changing location, there is one less vacuum; and there has never been a problem with obstructing the vehicles entering or exiting the carwash, that there are usually three people drying cars of as they exit the carwash; that #5 can be overridden because nothing on the site plan has changed since the plan was originally approved and there is going to be one less vacuum.

Tim Weigel, owner of the carwash, testified that the islands will be removed and the new vacuums are installed in a sonotube at level grade; and that the new vacuums require less maintenance and are free for carwash customers.

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 5.22 Permitted obstruction in required yards, courts and usable open spaces: All required yard, courts and usable open spaces shall be unobstructed except as provided in this section variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The height of the new efficient vacuum hoses are not going to interfere with views for incoming or outgoing vehicles and are not affecting traffic flow along Middletown Road.
2. The Board voted unanimously to override comments #3, #4 & #5 of the Rockland County Department of Planning letter dated March 31, 2023 for the following reasons: #3 needs an override because all of the details for structural elements have been submitted to the building inspector; #4 needs an over-ride because the vacuums are not changing location, there is one less vacuum; and there has never been a problem with obstructing the vehicles entering or exiting the carwash, and there are usually three people drying cars off as they exit the carwash; and #5 can be overridden because nothing on the site plan has changed since the plan was originally approved and there is going to be one less vacuum.

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TOWN OF ORANGETOWN



3. The requested Section 5.22 Permitted obstruction in required yards, courts and usable open spaces: All required yard, courts and usable open spaces shall be unobstructed except as provided in this section variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The height of the new efficient vacuum hoses are not going to interfere with views for incoming or outgoing vehicles and are not affecting traffic flow along Middletown Road.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested Section 5.22 Permitted obstruction in required yards, courts and usable open spaces: All required yard, courts and usable open spaces shall be unobstructed except as provided in this section variance although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The height of the new efficient vacuum hoses are not going to interfere with views for incoming or outgoing vehicles and are not affecting traffic flow along Middletown Road.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.22 Permitted obstruction in required yards, courts and usable open spaces: All required yard, courts and usable open spaces shall be unobstructed except as provided in this section variance 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.

Ms. Castelli made a motion to override comments #3, #4 & #5 of the Rockland County Department of Planning letter dated March 31, 2023 for the following reasons: #3 needs an override because all of the details for structural elements have been submitted to the building inspector; #4 needs an over-ride because the vacuums are not changing location, there is one less vacuum; and there has never been a problem with obstructing the vehicles entering or exiting the carwash, and there are usually three people drying cars off as they exit the carwash; and #5 can be overridden because nothing on the site plan has changed since the plan was originally approved and there is going to be one less vacuum; which motion was seconded by Mr. Bonomolo and carried as follows: Mr. Sullivan, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The foregoing resolution to approve the application for the requested side yard and total side yard variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: April 4, 2023

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  
2023 APR -6 P 12:07  
TOWN OF ORANGETOWN