

MINUTES  
ZONING BOARD OF APPEALS  
June 21, 2023

MEMBERS PRESENT: PATRICIA CASTELLI, ACTING CHAIR  
BILLY VALENTINE  
THOMAS QUINN  
ROBERT BONOMOLO, JR.

ABSENT: DAN SULLIVAN, CHAIRMAN  
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 ITEM:

GETTLER	SIDE YARD VARIANCE	ZBA#23-19
68 Oldert Drive	(UNDERSIZED LOT) AND DEGREE OF	
Pearl River, New York	CONFORMING BULK TO BE INCREASED	
69.18 / 2 / 48; RG zone	APPROVED	

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 7:15 P.M.

Dated: June 21, 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 CLERK'S OFFICE

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TOWN OF ORANGETOWN

**§ 9.2, § 5.2, SIDE YARD VARIANCE APPROVED**

To: Mary Gettler  
24 Oldert Drive  
Pearl River, New York 10965

ZBA #23-19  
Date: June 21, 2023  
Permit #BLDR-3214-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-19: Application of Mary Gettler (Marian E Ferrone Trust) for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, R-G District, Group Q, Section 3.12 , Column 9 (Side Yard: 15' required, 9.1' proposed) ( Section 5.2 Undersized lot applies: existing lot width of 90') and from Section 9.2 ( Degree of Non-Conforming Bulk to be increased); for an addition to an existing single-family residence. The premises are located at 68 Oldert Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 2, Lot 48 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, June 21, 2023 at which time the Board made the determination hereinafter set forth.

Mary Gettler appeared and testified.

The following documents were presented:

1. Survey dated October 11, 1990 by Robert E. Sorace, L.S..
2. Architectural plan labeled " Gettler Residence 68 Oldert Drive Peral River NY 10965 Screened Porch -As Built Plan" not dated by Harry J. Goldstein, Architect.
3. ZBA Decision 72-8 dated January 19, 1972.

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

Mary Gettler testified that her parents lived in the house for 58 years; that her Dad passed away in 2020 and her Mom died this past March; that she and her husband have lived on the block for 32 years; that in 1972 her parents added the side porch and they did get a variance for it (in ZBA #72-8 dated January 19, 1972) but it was granted for 11.2' and the existing side yard is 9.1'; that the side yard of this house meets the rear yard of the neighbors on Noyes Street; that there is quite a distance between the two houses; that she is in the process of selling her parents' house and needs to legalize the side yard and she submitted pictures of the house to the Board.

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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.

Ms. Castelli 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 § 9.2 and § 5.2 side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The side porch has existed since 1972 without incident and the applicants side yard meets up to the neighbors' rear yard which has a greater set back of 25', and there are sufficient plantings between the two structures.
2. The requested § 9.2 and § 5.2 side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The side porch has existed since 1972 without incident and the applicants side yard meets up to the neighbors' rear yard which has a greater set back of 25', and there are sufficient plantings between the two structures.
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 § 9.2 and § 5.2 side yard variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The side porch has existed since 1972 without incident and the applicants side yard meets up to the neighbors' rear yard which has a greater set back of 25', and there are sufficient plantings between the two structures.
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.

TOWN CLERK'S OFFICE

2023 JUN 27 4:03 PM

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested § 9.2 and § 5.2 side 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.


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The foregoing resolution to approve the application for the requested § 9.2 and § 5.2 side yard variances are APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bonomolo and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Sullivan 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: June 21, 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-Ken L.

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

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