

MINUTES
ZONING BOARD OF APPEALS
September 20, 2023

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

ABSENT: NONE

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:

SCHATILOFF 86 old Middletown Road Pearl River, New York 69.17 / 5 / 34; R-15 zone	SIDE YARD VARIANCE APPROVED AS MODIFIED	ZBA#23-33
897 ROUTE 9W 897 Route 9W Upper Grandview, New York 71.17/ 1 / 13; R-22 zone	SECTIONS 5.22 & 5.224 AND FRONT YARD VARIANCES APPROVED	ZBA#23-34
CAMPBELL 667 Oak Tree Road Palisades, New York 78.17 / 2 / 31; R-40 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED SHED LOCATION ACKNOWLEDGED	ZBA#23-35
STANCU 57 West Orangeburg Road Orangeburg, New York 74.09 / 2 / 3; RG zone	FRONT YARD VARIANCE APPROVED AS MODIFIED OVER-RIDE COMMENTS #1 AND #4 ROCKLAND COUNTY DEPARTMENT OF PLANNING DATED 9/15/2023 SIGNED BY DOUGLAS J. SCHUETZ ACTING COMMISSIONER OF PLANNING	ZBA#23-36

TOWN CLERK'S OFFICE
2023 SEP 26 P 12:49
TOWN OF ORANGETOWN

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.

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: 39 South Williams Street Site Plan, 38 South William Street, Pearl River, NY 68.20 / 1 / 30.2; CS zone; Dental Arts Sign location Plan, 523 Route 303, Orangeburg, New York, 70.19 1 42; LO zone Route 303 Overlay 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 8:55 P.M.

Dated: September 20, 2023

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

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
2023 SEP 26 P 12:49
TOWN OF ORANGETOWN

SIDE YARD VARIANCE APPROVED AS MODIFIED WITH CONDITIONS

To: Helen Strilec Schatiloff
86 Old Middletown Road
Pearl River, New York 10965

ZBA #23-33
Date: September 20, 2023
Permit # BLDR-1780-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-33: Application of Helen Strilec Schatiloff for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 11.9' proposed: 13' granted) for an addition to an existing single-family residence. The premises are located at 86 Old Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 5, Lot 34 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 20, 2023 at which time the Board made the determination hereinafter set forth.

Helen Strilec Schatiloff appeared and testified.

The following documents were presented:

1. Plans labeled "86 Old Middletown Road, Pearl River, NY Rear Yard Addition" dated 05/30/2023 with the latest revision date of 06/14/2023 signed and sealed by Arben Sela, R.A. (1 page)
2. A letter dated September 19, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
3. A "No comments at this time" from Dyan Rajasingham, Rockland County Highway Department, dated September 8, 2023.
4. A "No comments at this time, Please send future correspondence for review" from Rockland County Health Department signed by Liz Mello dated August 21, 2023.
5. Three letters from neighbors in support of the application.
6. Eleven pages of construction documents for 86 Old Middletown Road.
7. Two artist sketches of the proposed addition.
8. Six computer generated pictures of the property.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco 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.

Helen Strilec Schatiloff testified that she needs a bathroom on the first level of the house; that after speaking with the architect, she decided to add an insulated garden room with radiant heat and a bathroom with a shower; that in order to accomplish this and still have access to the basement Bilco doors they designed a 6' wide hallway to the garden room, which allows light into the basement area and access to store outside summer furniture at the end of the season; that the garage was built at least 36 years ago but is not original to the house; that the previous owner of the house, Leroy Van Zandt, was an Oil Company Chairman and drove a very large car, and he added onto the rear of the garage to accommodate his car; that the rear of the garage is uneven and damaged by animals and will be repaired and shortened when the addition is being constructed; that she does not need a four foot wide staircase and can change them to a three foot wide stair or whatever meets the New York State Building Code in order to lessen the requested variance; that she wanted that staircase to access her compost bin in the rear of the house and to bring in groceries.

Public Comment:

Ed Pascocello, representing his mom at 83 Mountain View, property that directly abuts the applicant to the east; that he just wants to make sure that the proposed addition does not negatively impact his mother's property; that the rules apply for a reason and should be honored; that this may take away his mothers' privacy and the plans could be scaled back and built without a variance; and he asked if the garage will be remaining

Mike Bosco explained that the stairs are the reason the variance is being requested; and that the applicant stated that she is going to repair the garage which faces the Pasocello's property; and that the location of the addition is such to allow use of the existing Bilco doors into the basement.

The Board had a discussion about the width of the proposed stairway with the applicant and asked the applicant to reduce the width of the stairs to three-foot-wide or the minimum permitted by the New York Building Code in order to reduce the requested side yard from 11.9 to 13 feet.

The applicant agreed to this and to reduce the rear of the garage and repair it with a straight back, decreasing the pre-existing non-conforming set back from zero.

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 variance as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition is in the rear of the house and does not extend beyond the existing house and the applicant has agreed to decrease the width of the proposed staircase from four foot to three foot (or that permitted width of stairs according to NYS Building Code) in order to decrease the requested side yard variance from 11.9' to 13'. The applicant also agreed to repair the pre-existing non-conforming detached garage and remove part of the rear of the building that is in need of repair and rebuild it squared off to provide a 1'4" distance from the rear property line.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed addition is in the rear of the house and does not extend beyond the existing house and the applicant has agreed to decrease the width of the proposed staircase from four foot to three foot (or that permitted width of stairs according to NYS Building Code) in order to decrease the requested side yard variance from 11.9' to 13'. The applicant also agreed to repair the pre-existing non-conforming detached garage and remove part of the rear of the building that is in need of repair and rebuild it squared off to provide a 1'4" distance from the rear property line.

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 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 proposed addition is in the rear of the house and does not extend beyond the existing house and the applicant has agreed to decrease the width of the proposed staircase from four foot to three foot (or that permitted width of stairs according to NYS Building Code) in order to decrease the requested side yard variance from 11.9' to 13'. The applicant also agreed to repair the pre-existing non-conforming detached garage and remove part of the rear of the building that is in need of repair and rebuild it squared off to provide a 1'4" distance from the rear property line.
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 side yard variance as MODIFIED to 13' is APPROVED; and FURTHER RESOLVED, that the applicant will repair and reduce the rear of the pre-existing non-conforming garage to permit a 1'4" and 1' 3' rear yard; 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 side yard variance as MODIFIED to 13' is APPROVED with the SPECIFIC CONDITION that the applicant will repair and reduce the rear of the pre-existing non-conforming garage to permit a 1'4" and 1' 3' rear yard; 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; 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: September 20, 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-G.M.

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

TOWN CLERK'S OFFICE
2023 SEP 26 P 12:50
TOWN OF ORANGETOWN

SECTIONS 5.22 & 5.224 AND FRONT YARD VARIANCES APPROVED

To: Edward Peterson
897 Route 9W
Nyack, New York 10960

ZBA #23-34
Date: September 20, 2023
Permit #BLDR-2630-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-34: Application of 897 Route 9W for variances from Zoning Code (Chapter 43) of the Town of Orangetown, R-22 District, Section 3.12, Group I, Column 8 (Front Yard: 40' required, 17.5' proposed) and from Section 5.22 (all required yards shall be unobstructed except as provided in this section; Section 5.224 (No enclosed accessory off-street parking space, including a garage, is permitted in a required front yard. However, where, by reason of exceptional topography, it is impractical to construct an accessory garage behind the required front yard, the Board of Appeals may permit the construction of not more than two enclosed parking spaces within a required front yard accessory to a single-family residence) for a garage at an existing single-family residence. The premises are located at 897 Route 9W, Upper Grandview, New York and identified on the Orangetown Tax Map as Section 71.17, Block 1, Lot 13 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 20, 2023 at which time the Board made the determination hereinafter set forth.

Edward Peterson and Richard Nelson appeared and testified.

The following documents were presented:

1. Plans labeled "897 Route 9W Plot Plan" dated 0404.2023 by Rudy Dupuy, Architect, not signed or sealed (2 pages).
2. Survey dated March 10, 2016 by Stephen F. Hoppe, L.S..
3. A letter dated September 6, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 19, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
5. A "No future correspondence for this site" from Dyan Rajasingham, Rockland County Highway Department, dated August 11, 2023.
6. A "No comments at this time, Please send future correspondence for review" from Rockland County Health Department signed by Liz Mello dated September 8, 2023.
7. Three letters in support of the application from abutting property owners.
8. Four computer generated pictures of the property from different angles.

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 July 26, 2023 (as set forth in PB#23-36 granted Preliminary Site Plan approval subject to Conditions), rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declaration" 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; and Mr. Quinn, aye.

Edward Peterson testified that they would like to construct a detached two-car garage; that the garage would provide two spaces for their cars and additional storage; that the area is already paved so there would not be additional impervious surface; that they would not be changing the slope of the property; that they purchased the house in 2020 and it was recently renovated; that the previous owners converted the attached garage to a dining room; and there are similar garages in the area.

Richard Nelson testified that both the neighbors to the north and south have similar garages; that they are on the east side of Route 9W and they do not have as steep a driveway as some of their neighbors.

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. Bosco 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 § 5.22, § 5.224 and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Many other properties in the area have similar garages located in the front yard because of the topography in the neighborhood. The previous owner of the property renovated the house and took the original attached garage and converted it into a dining room.
2. The requested § 5.22, § 5.224 and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Many other properties in the area have similar garages located in the front yard because of the topography 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 § 5.22, § 5.224 and front 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. Many other properties in the area have similar garages located in the front yard because of the topography 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.

TOWN CLERK'S OFFICE

08-21-23 02:36 PM
2023-08-21 02:36 PM

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested § 5.22, § 5.224 and front 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.

TOWN OF ORANGETOWN
2023 SEP 26 P 12:50
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested § 5.22, § 5.224 and front yard variances are APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, 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: September 20, 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-D.M.

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

TOWN OF ORANGETOWN
2023 SEP 26 P 12:50
TOWN CLERK'S OFFICE

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED; EXISTING SHED LOCATION ACKNOWLEDGED

To: Margaret Fowler (Campbell)
500 N. Broadway
Nyack, New York 10960

ZBA #23-35
Date: September 20, 2023
Permit #BLDR-3791-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-35: Application of Michael Campbell for variances from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-40 District, Section 3.12, Group E, Column 9 (Side Yard: 30' required, 26.5' proposed, 14.6' existing), 10 (Total Side Yard: 80' required, 41.1' proposed) for an addition to an existing single-family residence. The premises are located at 667 Oak Tree Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 31 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 20, 2023 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Campbell Residence" dated 07/27/2023 signed and sealed by Margaret Fowler, Architect. (8 pages)
2. Site plan labeled "Additions and SESC Plan" dated July 27, 2023 signed and sealed by Thomas W. Skrable, P.E.
3. A letter dated September 15, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 19, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
5. A "No comments at this time" from Dyan Rajasingham, Rockland County Highway Department, dated September 8, 2023.
6. A "No comments at this time, Please send future correspondence for review" from Rockland County Health Department signed by Liz Mello dated September 8, 2023.
7. Three computer generated pictures of the house.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco 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.

Margaret Fowler, Architect, testified that the applicant would like to improve the interior flow of the house; that the dining room as it exists does not get used; that they would like to fill in underneath the existing carport and make a new dining room with a circular path and a sunporch behind it; that the front columns would remain open and the dining room would take back the two bays; that the side yard does not change; that it will remain at 14.6; that the shed is existing at 1.5' on the west side yard; that they have been before the Board for variances that were granted in ZBA #11-60 and #11-100; that the driveway is wide enough to hold six cars and the owners have never used the carport.

Public Comment:

Lynn Fowler, 5 Heyhoe Woods Road, asked for clarifications regarding the carport and if it was being eliminated? And stated her concern for the next owner of the property who most likely would not have car service picking them up daily and would need the carport.

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 and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
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 and total 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. Similar additions have been constructed in the area.
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 OF ORANGETOWN
2023 SEP 26 P 12:50
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, acknowledgment that the presented plan shows the existing shed located on the west side of the property is 1.5' from the side yard; 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.

TOWN CLERK'S OFFICE
19:51 P 26 SEP 2023
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and total side yard variances are APPROVED and acknowledged that the presented plans shows the existing shed on the west side of the property is located 1.5' from the side yard; 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: September 20, 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-K.L.

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

TOWN CLERK'S OFFICE
2023 SEP 26 P 12:51
TOWN OF ORANGETOWN

**FRONT YARD VARIANCE APPROVED AS MODIFIED: ROCKLAND COUNTY
DEPARTMENT OF PLANNING LETTER DATED SEPTEMBER 15, 2023 OVERRIDE
OF COMMENT #1 AND #4**

To: Marin Stancu
57 West Orangeburg Road
Orangeburg, New York 10962

ZBA #23-36
Date: September 20, 2023
Permit #BLDR-3793-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-36: Application of Marin Stancu for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, RG District, Group Q, Column 8 (Front Yard: 25' required, 20' proposed) for an addition to an existing single-family residence. The premises are located at 57 West Orangeburg Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 74.09, Block 2, Lot 3 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 20, 2023 at which time the Board made the determination hereinafter set forth.

Marin Stancu, Architect and property owner, appeared and testified.

The following documents were presented:

1. Plans labeled "Front Porch Renovation" dated 07/12/2023 signed and sealed by Angel Rojas, AIA. (3 pages)
2. A letter dated September 15, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated September 19, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
4. A " No comments at this time" from Dyan Rajasingham, Rockland County Highway Department, dated August 25, 2023.
5. A " No comments at this time , Please send future correspondence for review" from Rockland County Health Department signed by Liz Mello dated September 8, 2023.
6. Two letters from neighbors in support of the project.
7. A picture of the existing house and rendering of the proposed changes to the front entrance, plot plan and bulk table and over view picture.

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.

Marin Stancu testified that he would like to add a foyer and a covered porch to the front of his house; that this would help with heat loss in the winter and give him a place to remove his boots and hang up a coat prior to entering the living room; that he applied for a permit and was issued a permit and then he got a call saying to split the permit in two because part of the roof over the covered entrance way required a front yard variance; that he had a bulk table from the town that said his required front yard was 20' and the building inspector told him that his side of the street has a required front yard of 25'; that he is an Architect and did his homework and does not understand the discrepancy in the code.

TOWN OF ORANGETOWN

Mr. Bosco stated that he visited the property today and the measurements are off. That he measured 18' to the sidewalk; that he used an 8' piece of aluminum that was on the property; that he would like clarification as to the measurement to the designated street line.

Mr. Quinn testified that Orangeburg Road was widened sometime in the 1970's from a two-lane road to a four-lane road and property owners lost a large portion of their front yards to this change.

Denise Sullivan, Attorney for the Board acknowledged the same thing and stated that this happened when they were constructing the Blue Hill building stating that it was going to be the new Wall Street.

The board discussed the front yard set-back, noting that the survey that was used was dated from 1968 prior to the taking of the property for the road widening; and decided that it would be unfair to the applicant to hold him up or force him to get an updated survey, since the building department accepted the original survey.

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 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board is approving a front yard set-back from the concrete stoop to the designated street line of 16'. Similar additions have been constructed in the neighborhood.
2. The Board is over-riding comment #1 and comment #4 from the Rockland County Department of Planning letter dated September 15, 2023 signed by Douglas J. Schuetz, Acting Commissioner of Planning because it would add an additional financial burden for the applicant to have to obtain a new survey for this minor addition to his house. The Board is satisfied that the measurement they have come up with is satisfactory.
3. 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 Board is approving a front yard set-back from the concrete stoop to the designated street line of 16'. Similar additions have been constructed in the neighborhood.

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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 front 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 is approving a front yard set-back from the concrete stoop to the designated street line of 16' . Similar additions have been constructed in the neighborhood.
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 front yard variance as modified is APPROVED as no more than a 16' setback from the concrete stoop to the designated street line; 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.

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(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 no more than a 16' setback from the concrete stoop to the designated street line; is APPROVED; and FURTHER RESOLVED to over-ride comment #1 and comment #4 from the Rockland County Department of Planning letter dated September 15, 2023 signed by Douglas J. Schuetz, Acting Commissioner of Planning because it would add an additional financial burden for the applicant to have to obtain a new survey for this minor addition to his house after the Building Department accepted the original survey and the Zoning Board is satisfied that the measurement they have come up with is satisfactory; which motion was presented and moved by Mr. Bonomolo, 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: September 20, 2023

ZONING BOARD OF APPEALS
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