

MINUTES  
ZONING BOARD OF APPEALS  
December 6, 2023

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

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

NANUET AUTO REPAIR  
370 S. Middletown Road  
Nanuet, New York  
64.17 / 1 / 1; CO zone

CONTINUED

ZBA#23-47

BARNETT  
11A William Street  
Sparkill, New York  
77.08 / 5 / 29.2; RG zone

APPROVED

ZBA#23-48

GAVIN/DILLON PROPERTIES LLC.  
231 Sickletown Road  
Orangeburg, New York  
69.08 / 1 / 25; R-40 zone

APPROVED

ZBA#23-49

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 8:30 P.M.

Dated: December 6, 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 DEC 14 P 3:30 PM  
TOWN CLERK

## **FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD VARIANCES APPROVED**

To: Karla Karwas (Barnett)  
307 Greeves Road  
New Hampton, New York 10958

ZBA #23-48  
Date: December 6, 2023  
Permit #BLDR-2633-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-48: Application of Holly Barnett for variances from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, RG District, Group Q, Columns 4 ( Floor Area Ratio: 30% permitted, 32% proposed), 9 (Side Yard: 10' required, 5.66' proposed), 11 ( Total Side Yard: 20' required, 17.1' proposed) ( Section 5.21 Undersized lot Applies) for an addition to an existing single-family residence. The premises are located at 11 A William Street, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 29.2 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, December 6, 2023 at which time the Board made the determination hereinafter set forth.

Karla Karwas, Architect, appeared and testified.

The following documents were presented:

1. Topographic survey showing existing features , proposed deck, set back lines and bulk table analysis signed and sealed by Neville V. Ramsay, L.S dated 9/27/2023 with the latest revision date of 10/09/2023. ( 1 page)
2. Architectural plans dated December 2, 2022 by Karla Rae Karwas, Architect, signed or sealed, with June 12, 2023 as the latest revision date.
3. A letter dated November 29, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated November 28, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
5. A letter dated November 13, 2023 signed by Dyan Rajasingham, Engineer III, Rockland County Highway Department.
6. Two computer generated pictures of the rear of the house were submitted by Karla Karwas, Architect.
7. A hand-written note from Rose Pizzi, 13 William Street, Sparkill, NY with 20 color pictures of the property and property line.

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

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

Karla Karwas, Architect, testified that part of the existing deck was enclosed as a dining area prior to her client purchasing the house; that they are proposing to legalize the enclosed area by removing the doors that go nowhere and replacing them with windows and properly insulating the room; that they are also planning to remove the second story deck and replace it with a Juliet balcony; that the first story deck would be removed and rebuilt extending it by four feet into the rear yard; that the stairs on the side of the deck would be removed; that the deck would not encroach further into the side yard than it already does; and three new footings would be installed; that the existing ramp on the side of the house connects the driveway and goes to the kitchen door and it will remain.

Public Comment:

Rose Pizzi, 13 William Street, Sparkill, testified that she would like to thank the Board for the opportunity to speak and to be clear she is not here to object in any way to her neighbor improving her property at her own expense; that she would like to voice some concerns pre-empting any damage or incidents during or after the construction; that she is concerned about possible damage to the large pine tree in her backyard that is close to the property line and possible damage to the existing retaining wall which is on her property and the easement for the driveway that specifically states that no debris or equipment may block the easement; that she had property stakes installed by her surveyor and her neighbor removed them and threw them out; that Hoppe is coming back in the near future to replace them and hopefully they will be cemented in this time; that she does all of her own lawn maintenance and would like to be sure that her property is not damaged or used for any of the construction materials or debris; that Ms. Barnett has already planted several arborvitae on the retaining wall that belongs to my property; that she would like to be sure that property lines are recognized and respected.

Mr. Sullivan, Chairman, explained that if there is a problem with construction material or vehicles blocking the easement, or construction material blowing onto the neighbors' property during construction, that she should call the building department and have the code enforcement officer come out to the property.

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 floor area ratio, side yard, total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the property is an undersized lot ( Section 5.21). The floor area ratio variance is necessary in order to legalize the portion of the deck that was illegally converted to a dining area and it is a minimal floor area ratio request and the side yard and total side yard conditions are existing and only being extended by four feet into the rear yard.
2. The requested floor area ratio, side yard, total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the property is an undersized lot ( Section 5.21). The floor area ratio variance is necessary in order to legalize the portion of the deck that was illegally converted to a dining area and it is a minimal floor area ratio request and the side yard and total side yard conditions are existing and only being extended by four feet into the rear yard.

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 floor area ratio, side yard, 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. The Board acknowledged the property is an undersized lot ( Section 5.21). The floor area ratio variance is necessary in order to legalize the portion of the deck that was illegally converted to a dining area and it is a minimal floor area ratio request and the side yard and total side yard conditions are existing and only being extended by four feet into the rear 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 floor area ratio, side yard, total side yard variances are APPROVED and the Undersize lot is acknowledged; and FURTHER RESOLVED, that the applicant has agreed to keep the existing easement clear of all construction vehicles, materials and debris at all times; 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 floor area ratio, side yard and total side yard variances are APPROVED, the undersized lot is acknowledged and the applicant has agreed to keep the existing easement clear of all construction vehicles, materials and debris at all times; was presented and moved by Ms. Castelli, 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: December 6, 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

RECEIVED  
DEC 14 2023  
TOWN OF ORANGETOWN

## **FRONT YARD VARIANCE APPROVED**

To: Thomas Nittoli  
231 Sickletown Road  
Orangeburg, New York 10962

ZBA #23-49  
Date: December 6, 2023  
Permit #BLDRT-4035-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-49: Application of Gavin/Dillon Properties LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-40 District, Group E, Column 8 (Front Yard: 50' required, 11' proposed) for a driveway gate at an existing single-family residence. The premises are located at 231 Sickletown Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 69.08, Block 1, Lot 25 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, December 6, 2023 at which time the Board made the determination hereinafter set forth.

Sarah and Thomas Nittoli appeared and testified.

The following documents were presented:

1. Plot plan based on a survey by Anthony R. Celentano, PLS dated 6/30/2022 ( 1 page).
2. A letter dated November 27, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated November 28, 2023 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.

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; Mr. Quinn, aye; and Mr. Valentine, aye.

Thomas Nittoli testified that they are proposing to install a driveway gate that would require a front yard variance because they are proposing to place it eleven feet from the front property line; that the property is their private home; that he frequently travels for work; that drivers tend to use the driveway as a turn around and it disturbing especially late in the evening; that the driveway gate would prevent this activity; and that they will be sure to get all necessary permits.



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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is oddly shaped and the gate will provide security for the family. The applicant has agreed to obtain all necessary permits.
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 property is oddly shaped and the gate will provide security for the family. The applicant has agreed to obtain all necessary permits.
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 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 property is oddly shaped and the gate will provide security for the family. The applicant has agreed to obtain all necessary permits.
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. Bosco, 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: December 6, 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-Dom. M.

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

RECEIVED  
TOWN OF ORANGETOWN  
CLERK'S OFFICE  
DEC 11 2023