

March 20, 2024

MICHAEL BOSCO, CHAIRMAN
THOMAS QUINN
ROBERT BONOMOLO, JR.
PATRICIA CASTELLI
BILLY VALENTINE

NONE

Denise Sullivan, Deputy Town Attorney
Deborah Arbolino, Administrative Aide (last ZBA Hearing)
Anne Marie Ambrose, Official Stenographer

This meeting was called to order at 7: 00 P.M. by Mr. Bosco, Chairman.
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

ALBARAN
5 Pine Glen Drive
Blauvelt, New York
65.19 / 1 / 40; R-40 zone

**FLOOR AREA RATIO,
AND REAR YARD
VARIANCES APPROVED**

ZBA#24-16

MCCOY
102 Derfuss Lane
Blauvelt, New York
69.20 / 2 / 64; R-15 zone

**UNDERSIZED LOT
BUILDING HEIGHT VARIANCE
APPROVED**

ZBA#24-17

39 S. WILLIAM
39 S. William Street
Pearl River, New York
68.20 / 1 / 30.2; CS zone

PARKING, SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED

ZBA#24-18

PEARL RIVER
PUBLIC LIBRARY
75 E. Central Avenue
Pearl River, New York
68.16 / 6 / 49; CS zone

**INTERPRETATION IN FAVOR
OF APPLICANT: FEES SHOULD
BE REFUNDED**

ZBA#24-19

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

FOIA b 7 - DATES: 0 1/1/01

2025 RELEASE UNDER E.O. 14176

TO: DIRECTOR, FBI

Page 2

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 8:15 P.M.

Dated: March 20, 2024

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
2024 MAR 26 P 1:11
TOWN CLERK'S OFFICE

REAR YARD AND FLOOR AREA RATIO VARIANCES APPROVED

To: Elsa Albaran
5 Pine Glen Dr
Blauvelt, NY 10913

ZBA #24-16
Date: March 20, 2024
Permit # BLDR-4531-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-16: Application of Elsa Albaran for variances from Zoning Code (Chapter 43) of the Town of Orangetown, R-40 District, Group E, Section 3.12, Column 4 (Maximum Floor Area Ratio: .15 permitted, .162 proposed) and Column 11 (Rear Yard: 50’ required, 40’ proposed) for an awning structure over an existing deck at an existing single- family residence. The premises are located at 5 Pine Glen Dr, Blauvelt, New York and identified on the Orangetown Tax Map as Section 65.19, Block 1, Lot 40 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 20, 2024 at which time the Board made the determination hereinafter set forth.

Elsa Albaran and Jonathan Chang, homeowners appeared and testified.

The following documents were presented:

- 1. A Plot plan based on the Survey done by William Youngblood Assoc, Dated March 30, 1987, revised by the homeowner Elsa Albaran, dated January 3, 2024.
- 2. A computer generated black and white picture of the existing conditions.

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

Elsa Albaran testified that they purchased the house last year when there were bidding wars going on for properties; that the municipal search showed that the awning over the deck required a variance; that when they came in with plans to legalize the awning, they found out that the deck also needed a variance; and that they are before the Board to legalize both the deck and the awning.

Jonathan Chang testified that the house was built in 1988 and the deck foundation matches the original house and it looks like it was constructed when the house was constructed.

TOWN OF ORANGETOWN
MARCH 20, 2024
APPROVED TO SIGN

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. Bosco 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 floor area ratio and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck with the awning structure have been in existence for several years without incident and similar decks exist in the neighborhood.
2. The requested floor area ratio and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The variances requested were for an awning structure over an existing deck that existed prior to the applicant purchasing the property. The applicant is before the Board to legalize an existing condition. The deck with the awning structure have been in existence for several years without incident and similar decks exist 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 floor area ratio and rear yard variances 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 variances requested were for an awning structure over an existing deck that existed prior to the applicant purchasing the property. The applicant is before the Board to legalize an existing condition. The deck with the awning structure have been in existence for several years without incident and similar decks exist 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.

10/15/2024 10:11 AM

10/15/24 10:11 AM

10/15/24 10:11 AM

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio and rear 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.

2024 JUN 10 PM 1:12
ZBA#24-16
BLDR-4531-24

The foregoing resolution to approve the application for the requested floor area ratio and rear yard variances is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Bosco, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, 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: March 20, 2024

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

TOWN CLERK'S OFFICE
2024 MAR 26 P 1:12
TOWN OF ORANGETOWN

§ 5.21(e) BUILDING HEIGHT VARIANCE APPROVED

To: Tara McCoy
102 Derfuss Ln.
Blauvelt, NY 10913

ZBA #24-17
Date: March 20, 2024
Permit # BLDR-4683-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-17: Application of Tara and Matthew McCoy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, R-15 District, Group M, Section 5.21(e) (Building Height: 20' permitted, 23'10" proposed), for an addition to an existing single-family residence. The premises are located at 102 Derfuss Ln, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.20, Block 2, Lot 64 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 20, 2024 at which time the Board made the determination hereinafter set forth.

Harry Goldstein, Architect, Matthew Morrison, Contractor, Tara and Matthew McCoy, homeowners appeared and testified.

The following documents were presented:

1. Architectural Plans labeled " McCoy Residence Two-Story Addition: dated 11/08/2023 signed and sealed by Harry J. Goldstein, AIA. (3 pages)
2. Survey for McCoy dated July 21, 2009 by Anthony R. Celentano, P.L.S.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Bosco 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. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye and Mr. Valentine, aye.

Harry Goldstein, Architect, testified that the house is a cape cod style house; that they are proposing to remove the existing roof and build the walls up to a full second story in order to create a full second floor; that they are adding three bedrooms, two baths and a laundry room on the second floor and rearranging the existing first floor; that they are not changing the footprint; that the lot is in the R-15 zoning district but it is an undersized lot which only permits 20' for building height and they require 23' 10" to accomplish a full second story; that the roof pitch is 8/12; that the total square footage of the house after the addition will be 2,370 sq. ft.' and that the side yard to the bilco doors foundation is 15' 6".

Tara Mc Coy testified that the existing shed is five feet from the property line and marked that on the survey; that they have lived in the house for 15 years and two years ago they had a baby and now they need more space.

Matthew McCoy testified that they also have family that visits and stays over nights and they need more space to accommodate them.

TOWN OF ORANGETOWN
2024 MAR 20 PM 4:12
TOWN CLERK'S OFFICE

No Public comment.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

Mr. Bosco made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

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 § 5.21(e) building height variance 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 neighborhood. The Board noted that the foundation for bilco doors are 15' 6" from the side yard and the existing shed is five feet from the property line.
2. The requested § 5.21(e) building height variance 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 neighborhood. The Board noted that the foundation for bilco doors are 15' 6" from the side yard and the existing shed is five feet from the 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. Similar additions have been constructed in the neighborhood. The Board noted that the foundation for bilco doors are 15' 6" from the side yard and the existing shed is five feet from the property line.
4. The requested § 5.21(e) building height 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. Similar additions have been constructed in the neighborhood. The Board noted that the foundation for bilco doors are 15' 6" from the side yard and the existing shed is five feet from the 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.

TOWN OF GRANBURY
 MAR 29 PM 4:12
 TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested § 5.21(e) building height 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.

RECEIVED
TOWN OF ORANGETOWN
JUL 11 2024

The foregoing resolution to approve the application for the requested § 5.21(e) building height variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, 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: March 20, 2024

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- Mike M.

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

TOWN CLERK'S OFFICE
2024 MAR 26 P 4:12
TOWN OF ORANGETOWN

§ 3.11, COLUMN 6 #4 SPACES REQUIRED, AND § 3.12 SIDE YARD, TOTAL SIDE YARD, AND REAR YARD VARIANCES APPROVED

To: Edward O'Hara(39 S. William)
941 Mc Lena Ave.
Apartment 260
Yonkers, NY 10704

ZBA #24-18
Date: March 20, 2024
Permit # BLDC-2402-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-18: Application of Edward O'Hara for variances from Zoning Code (Chapter 43) of the Town of Orangetown, CS District, Section 3.11, Column 6 #4 (25 Spaces required, 4 spaces proposed), and from Section 3.12, Group FF, Columns 9 (Side yard: 0'/12' required, 2' proposed), 10 (Total Side Yard: 0'/25' required, 4' proposed) 11 (Rear Yard: 25' required, 12' proposed) for a construction of a new commercial building. The premises are located at 39 S. William St, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 30.2 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 20, 2024 at which time the Board made the determination hereinafter set forth.

Edward O'Hara, owner, Daniel Collins, P.E., appeared and testified.

The following documents were presented:

1. Architectural plans, dated 8/04/2022, with the most recent revision date of 1/17/2024, signed and sealed by Jenny R. Zuniga-Casal, R.A. (8 pages)
2. A layout plan, dated 1/23/2024, signed and sealed by Michael F. Stein, L.P.E..
3. A Short Environmental Assessment Form, signed by the applicant, dated 1/31/2024.

Mr. Bosco, 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. Bosco 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 January 10, 2024 (as set forth in PB#23-46) for 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 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. Quinn, aye; Mr. Valentine, aye; Ms. Castelli, aye; Mr. Bonomolo, aye; and Mr. Bosco, aye.

Daniel Collins, Engineer for the project, testified that the lot is small and there is no way they could provide 25 parking spaces and have building on the lot; that they are providing three regular parking spaces and one handicap accessible parking space on site; that there is a municipal lot across the street and an additional parking lot to the north; that they first proposed a building with a zero side yard and the Planning Board did not like it because there would not be any room for building maintenance; that they revised the plans accordingly and have a building with two-foot side yards on the North and South sides; that the Planning Board also wanted the building pushed back which added the rear yard variance; that all of the stormwater will be directed into a pipe system under the parking area; that the roadway opening will be 24'; and the rear yard request is for twelve feet.

OFFICIAL RECORD

Edward O'Hara testified that the use of the building is for construction storage and construction office space; that there will be five employees; that the garage door was installed in the rear at the request of the Planning Board; that the lot to the south is a vacant lot; the lot to the north is a parking lot owned by McKeon; that across the street is a municipal lot and behind them is a two-family house on Ridge Street; and that the building would have a stucco finish but they do not know what color yet.

Public Comment:

Kevin Murtagh, 50 Ridge Street, Pearl River, testified that he is not opposed to the building but has some concerns about the height of the building because he does not want to see a 35-foot block wall façade and asked what kind of finish would be done to the building

Mr. Bosco, Chairman stated that the application would be going to ACABOR and that Board would address any concerns about plantings and facades.

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. Bosco 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 parking, side yard, total side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant changed the side, total side and rear yards to accommodate changes that were requested by the Planning Board. There is sufficient parking in the area if needed at anytime for the occasional time that there will be additional persons on site. The application will be reviewed by ACABOR and colors and siding and any additional screening shall be decided by that Board.
2. The requested parking, side yard, total side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant changed the side, total side and rear yards to accommodate changes that were requested by the Planning Board. There is sufficient parking in the area if needed at anytime for the occasional time that there will be additional persons on site. The application will be reviewed by ACABOR and colors and siding and any additional screening shall be decided by that Board.
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 parking, side yard, total side yard and rear yard variances are 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 applicant changed the side, total side and rear yards to accommodate changes that were requested by the Planning Board. There is sufficient parking in the area if needed at anytime for the occasional time that there will be additional persons on site. The application will be reviewed by ACABOR and colors and siding and any additional screening shall be decided by that Board.
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 parking, side yard, total side yard and rear 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.

The foregoing resolution to approve the application for the requested parking, side yard, total side yard and rear yard variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Valentine and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Bosco and Mr. Valentine, 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: March 20, 2024

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

TOWN CLERK'S OFFICE
2024 MAR 26 P 1:12
TOWN OF ORANGETOWN

INTERPRETATION IN FAVOR OF APPLICANT: ALL FEES PAID SHOULD BE REFUNDED TO APPLICANT

To :Lino J. Sciarretta (Pearl River Library)
One Blue Hill Plaza Suite 1613(3rd floor)
Pearl River, New York 10965

ZBA #24-19
Date: March 20, 2024
Permit #BLDC-4654-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-19: Application of The Pearl River Public Library for an Interpretation from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.11, CS District, Column 2 (Uses permitted by right: not a use permitted by right as per building permit denial dated February 13, 2024) for the temporary use of a commercial building for the Library during the construction of the existing library. The premises proposed for temporary use are located at 75 E Central Ave, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 49 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, March 20, 2024 at which time the Board made the determination hereinafter set forth.

Lino Sciarretta, Esq., Kevin Thurman, property owner and Eugenia Schatoff, Director, Pearl River Library, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "75 East Central Avenue" dated 10/01/2022 signed and sealed by Michael Andrew Dominic Bevivino II, Architect. (12 pages)
2. A cover letter dated March 5, 2024 from Bleakley Platt, Attorneys at law signed by Lino J. Sciarretta, Esq.
3. Referral to the Zoning Board dated February 13, 2024 signed by Rick Oliver, Deputy Building Inspector and Jane Slavin, Director, OBZPAE.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Bosco made a motion, based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since Applicant Pearl River Public Library requests an interpretation of an existing code, rule or regulation, this application is exempt from environmental review under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (37); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, aye.

Lino Sciarretta, Attorney for 75 E. Central Avenue, LLC, testified that the premises has been vacant for many years; that the Pearl River Library recently signed a lease with his client to temporarily relocate the library to the premises while the current library building is unavailable due to planned renovations; that the premises is zoned CS; that the existing library is directly across the ballfield from the premises and is within the CO zone; that on February 13, 2024 the Deputy Building Inspector referred this matter to the Zoning Board stating that "use as a Public Library in a CS District not listed as a use by right" ; that for the following reasons we respectfully disagree: (1) the use table for CS zone includes among "uses of right" fire, police and community-owned ambulance stations, government offices and office buildings, town garages, municipal parking lots and similar public buildings and government uses; and neither the term "public building" nor "public Library" is defined in the Town of Orangetown Zoning Code; that it is well settled in New York that zoning laws and regulations are strictly construed against the municipality which has enacted them and seeks to enforce them; and he made reference to several cases; that the meaning of any undefined term found within a municipal code

or law must be interpreted in favor to the property owner/ applicant over the municipality as a matter of law; that a public library is certainly similar to public building within the meaning of this use; that since there is no definition of “public building” in the Town Zoning Code, the term is ambiguous and must be interpreted in favor of the applicant to mean that a public library can be deemed a similar public building for zoning purposes; that it also bears noting that the premises is consistent with a public building in terms of accessibility features; that the premises is an ideal location for the temporary relocation of the Pearl River Library because it would be a natural fit and would benefit the community by allowing it to still be in downtown Pearl River during the renovation period; that the Public Library is seeking to utilize the exiting premises without any bulk expansion, there is no negative impact to temporarily utilize the premises for such a public library use particularly when such use already exists in downtown Pearl River; that the applicant is only seeking temporary rental use of the premises as a public library; that the Zoning Board of Appeals had the discretion to permit such use on the condition that it be re-evaluated after a certain period; that the ZBA can maintain jurisdiction over the application, grant the applicant a favorable interpretation and permit the library to operate at the premises for a set duration subject to further review if required at a later date.

Eugenia Schatoff, Director of the Pearl River Library, testified that the Library is funded by the Pearl River Scholl and provides collaborative services and has done so for many years with public funding.

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. Bosco 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 site inspection of the premises by the member of the ZBA; after hearing and considering all of the testimony from the Applicant’s representatives, from the public, and representatives of the public, as summarized above, and after reviewing and considering all the documentation, reports, materials, communications and correspondence submitted to the ZBA, as inventoried above, the ZBA found and concluded that:

The ZBA considered the Applicant’s interpretation request for the ZBA to determine whether the determination of Jane Slavin, R.A., Director of the Orangetown Office of Building, Zoning and Planning, Administration and Enforcement (OBZPAE), that the Applicant’s proposal for a temporary location of the Pearl River Library at 75 East Central Avenue, Pearl River, N.Y. in the CS zone requires a use variance .

The Board found and concluded that the applicant Pearl River Library is permitted by right to use the existing building at 75 E. Central Avenue, Pearl River (in the CS district) as a Public Library. “Similar public buildings” are permitted in the CS zone as set forth in the Table of General Use Regulations for the CS District. It is obvious that the Library falls under the ordinary meaning of the phrase “similar public building (s)”; the Library is funded by the tax payers of the school district and serves a public purpose and a community purpose; and it is obvious that the Library should be determined to be a “Public Building” by the Zoning Board, and another finding of fact is that the application does not require an area variance. A common sense reading of the

Town Code should have been interpreted in favor of the applicant; the Pearl River Public Library should have been determined to be a “similar public building” under § 3.11, Column 2 #3 of the Table of General Use Regulations for the CS District: the applicant successfully advocated their position in the letter dated March 5, 2024 by Bleakley Platt (attorneys for the applicant); and for all of the foregoing reasons, the applicant should be refunded all monies paid to appear before the Board.

DECISION: On the basis of the foregoing Findings of Facts and Conclusion, and the testimony and documents presented, Mr. Valentine moved that the applicant Pearl River Public Library is permitted by right to occupy the existing building located at 75 E. Central Avenue, Pearl River, N.Y., in the CS Zone. The Zoning Board agrees with the applicant that the Board should find in favor of the applicant if the language of the Code is ambiguous; the phrase “ similar public building” is ambiguous; that an area variance is not required; that the use of the premises by the public library is consistent with a public building in terms of its accessibility features; and the Board does have enough information to determine that a use variance is not required; which motion was seconded by Mr. Quinn and carried as follows: Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Bosco, aye; Mr. Valentine, aye; and Mr. Quinn, aye; 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 interpretation is GRANTED IN FAVOR OF THE APPLICANT :that the application as presented does not require a use variance was presented and moved by Mr. Valentine, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, 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: March 20, 2024

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

TOWN OF ORANGETOWN
2024 MAR 26 PM 4:13
TOWN CLERK'S OFFICE