

MINUTES
ZONING BOARD OF APPEALS
April 19, 2017

MEMBERS PRESENT: DAN SULLIVAN
MICHAEL BOSCO
PATRICIA CASTELLI
JOAN SALOMON
THOMAS QUINN
LEONARD FEROLDI, ALTERNATE

ABSENT: NONE

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide

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:

CHROMALLOY 330 Blaisdell Road Orangeburg, NY 73.20 / 1 / 1; LIO zone	MAXIMUM LAND COVERAGE VARIANCE APPROVED	ZBA#17-28
SUBARU DISTRIBUTION CORPORATION 6 Ramland Road Orangeburg, NY 73.20 / 1 / 25; LIO zone	CONTINUED TO THE JUNE 21, 2017	ZBA#17-29
DR. & MRS. BRUCE 14 Lawrence Lane Palisades, NY 80.07 / 1 / 3; R-40 zone	FLOOR AREA RATIO, SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#17-30

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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 applications: Parking Plan-Parkway Associates/King Car Service, 1-11 Veterans Parkway, Pearl River, NY; 69.05 / 2 / 76; CO zone; Dedicated Dental Services Site Plan-Deck, 609 Main Street, Sparkill, N.Y.; 77.08 / 5 / 39; CS zone; Bergson Subdivision Plan- 3 lots; (PB# 16-05), 56 Woods Road, Palisades, NY Section 78.18 / 1 / 3.1; R-80 zone; Eichelberger Plans, 5 Shadyside Avenue, Upper Grandview, 66.17 / 1 / 5; R-22 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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 10:30 P.M.

Dated: April 19, 2017

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

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DECISION

MAXIMUM LAND COVERAGE VARIANCE APPROVED

To: Ronald Panicucci, P.E.

LAN Associates

445 Godwin Avenue Suite #9

Midland Park, New Jersey 07432

ZBA #17-28

Date: April 19, 2017

Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-28: Application of Chromalloy for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Group CC, Section 3.12, Columns 4 refers to Note 14: (Maximum Land Coverage: 75% permitted, 78.92% proposed for parcel A) of the proposed subdivision. The business is located at 330 Blaisdell Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 1; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 19, 2017 at which time the Board made the determination hereinafter set forth.

Ronald Panicucci, Engineer, appeared and testified.

The following documents were presented:

1. Survey labeled "Proposed Minor Subdivision Chromalloy" dated March 1, 2017, revised March 9, 2017 signed and sealed by Matthew M. Webb, P.L.S., LAN Associates.
2. A letter dated April 10, 2017 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated March 16, 2017 from the Rockland County Health Department signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter dated April 7, 2017 from the Rockland County Sewer District No.1 signed by Joseph La Fiandra, Engineer II.

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

On advice of Dennis Michaels, 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 this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA review and, on March 8, 2017 rendered environmental determination of no significant adverse environmental impacts to result from the proposed land use action (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. Bosco, aye; Ms. Salomon, aye; Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye.

Ronald Panicucci, P.E., LAN Associates, testified that the proposed subdivision requires a variance for lot coverage; that there is no construction proposed; that the property was separated but in 1988 they merged the lots and now they would like to subdivide them, while keeping as much open space as possible; and that they are planning to sell lot 2.

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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 maximum land coverage variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested maximum land coverage variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 maximum land coverage variance, although somewhat substantial, afford 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.
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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested maximum land coverage 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.

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The foregoing resolution to approve the application for the requested maximum land coverage variance was presented and moved by Ms. Castelli, seconded by Mr. Bosco, and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, 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: April 19, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

FLOOR AREA RATIO, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Walter Aurell (Bruce)
171 Kings Highway
Orangeburg, New York 10962

ZBA #17-30
Date: April 19, 2017
Permit # 46201

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-30: Application of Dr. Jeffery and Mrs. Rebecca Bruce for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Columns 4 (Floor Area Ratio: .15 permitted, .169 proposed), 9 (Side Yard: 30' required, 9' proposed) and 12 (Building Height: 12' permitted, 24' proposed) for additions to an existing single-family residence. The premises are located at 14 Lawrence Lane, Palisades, New York and are identified on the Orangetown tax Map as Section 80.07, Block 1, Lot 3; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 19, 2017 at which time the Board made the determination hereinafter set forth.

Rebecca Bruce and Walter Aurell. Architect, appeared and testified.

The following documents were presented:

1. Site plan for Bruce Residence dated February 21, 2017 with the latest revision date of March 21, 2017 signed and sealed by David A. Getz, P.E..
2. Architectural plans dated April 5, 2017 signed and sealed by Walter Aurell, Registered Architect (6 pages).

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

On advice of Dennis Michaels, 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

Walter Aurell, Architect, first showed the Board pictures of the existing house and site; and testified that because of the restrictions of the lot area variances are needed; that the existing house sits close to existing cliffs and the river; that the new flood plain elevation renders the existing first floor of the house non-habitable space; that the 1134 sq. ft. on the first level of the house will become storage space with breakaway walls and flood vents; that the new space would be the existing main floor elevation at 15.19; and the new construction for this level will be built on piers and piles; that they zoning for the property is R-40 but the lot is significantly reduced by the 25% slopes on the property and new flood plain elevation; that these reductions result in the need for the floor area ratio variance; that the position of the garage is the cause for the side yard variance and

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the cliff to the rear of the house causes the corner to stick out into the yard; that the garage is a necessity because Dr. Bruce is a neurosurgeon that is frequently on call and must be accessible at all times; that the existing house is 23' high and the new construction is 24' high; and all five criteria for the granting of area variances were discussed.

Rebecca Bruce testified that they have four adult children.

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 floor area ratio, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The first floor of the existing dwelling has been reduced to storage space because of the change in the flood plain regulations.
2. The requested floor area ratio, side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing septic system has not been working and the new system has been tested and approved and, along with the proposed rain garden, the river water quality will be improved by the new construction.
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 and building height variances, although somewhat substantial, afford 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 slope reduction and change in the flood elevation has reduced the permitted building area on the lot.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, side yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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The foregoing resolution to approve the application for the requested floor area ratio, side yard and building height variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Ms. Salomon, 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: April 19, 2017

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
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BUILDING INSPECTOR-M.M.

TOWN CLERK
HIGHWAY DEPARTMENT
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MGMT. and ENGINEERING
FILE, ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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