

MINUTES
ZONING BOARD OF APPEALS
May 17, 2017

MEMBERS PRESENT: DAN SULLIVAN
PATRICIA CASTELLI
THOMAS QUINN
JOAN SALOMON
MICHAEL BOSCO
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:

CARR GARAGE 77.11 / 1 / 49; R-15 zone	FLOOR AREA RATIO, ACCESSORY STRUCTURE REAR AND SIDE YARD VARIANCES APPROVED UNDERSIZED LOT APPLIES	ZBA#17-32
ALBANESE 68.15 / 3 / 41; RG zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, ACCESSORY STRUCTURE REAR AND SIDE YARD VARIANCES APPROVED DETERMINED MORE THAN 50% BELOW GRADE IS CELLAR	ZBA#17-33
LIN 74.17 / 1 / 36; R-22 zone	POSTPONED	ZBA#17-34
ROWAN 69.09 / 5 / 42; R-15 zone	FLOOR AREA RATIO, LOT WIDTH, FRONT YARD, SIDE YARD TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#17-35
SCHON 69.06 / 1 / 10; R-15 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#17-36
WILEY 69.18 / 1 / 28; R-15 zone	SIX-FOOT FENCE IN FRONT YARD VARIANCE APPROVED	ZBA#17-37

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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: Sycamore Data Center Site Plan, Convent Road, Orangeburg, NY; 73.08 / 1 / 1, 3 & 4; RPC-OP zone; Mandell , 26 Shadyside Avenue, Upper Grandview, N.Y.; 71.05/ 1 / 8; 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 8:30 P.M.

Dated: May 17, 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

FLOOR AREA RATIO, AND § 5.227 ACCESSORY STRUCTURE SIDE YARD AND REAR YARD, VARIANCES APPROVED

To: Lauren Carr
180 Washington Street
Tappan, New York 10983

ZBA #17-32
Date: May 17, 2017
Permit # 46206

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-32: Application of Lauren Carr for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .329 existing, .41 proposed) (Section 5.21 C undersized lot applies) and from Section 5.227: (Accessory Building: required rear and side yards 5'; 0' proposed for side and rear yard) for a 14 x 24' detached one-story garage at an existing single family residence. The premises are located at 180 Washington Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 49; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 17, 2017 at which time the Board made the determination hereinafter set forth.

Lauren Carr and her dad Aaron Carr appeared and testified.

The following documents were presented:

1. Survey for Lauren Carr dated August 18, 2014 with the latest revision date of October 5, 2015 signed and sealed by Robert E. Sorace, L.S..
2. Drawings not dated by Stolfus Structures, 5075 Lower Valley Road, Atglen, P.A.
3. A letter dated May 1, 2017 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated April 25, 2017 from the Rockland County Highway Department signed by Joseph Arena, Senior Engineering Technician.
5. A letter dated April 7, 2017 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon 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. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

Lauren Carr testified that she would like to construct a garage on the property line in the rear of the property; that the lot is undersized; that she has a vintage collector car that must be garaged or it does not qualify for insurance; that the building will match the existing house with the same siding; that the one-story garage will be large enough for the vintage car and their bicycles garbage cans recycling and a few other items; that she did speak to the neighbors closest to that portion of the property and they said they have

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no problem with the structure as long as it remains one story; that the house was built in 1901 and there was no zoning code back then; that she was before the Board a few years ago and got approved for a half bath addition that they did not build because of the cost; that the proposed garage will not disturb, distract, or cause damage to any of the neighbors; that there will be no undesirable change in the neighborhood; that there is no other way for her to store her vintage car on her own property; and she really appreciates the Board's time and consideration.

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. Salomon 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 § 5.227 side and rear yard, variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is undersized and the original house was built in 1901 before the zoning code was written; the proposed structure will be one –story, built on the property line and the proposal was discussed with the neighbor who shares that property line.
2. The requested floor area ratio, and § 5.227 side and rear yard, variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is undersized and the original house was built in 1901 before the zoning code was written; the proposed structure will be one –story, built on the property line and the proposal was discussed with the neighbor who shares that 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 floor area ratio, and § 5.227 side and rear yard, 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 property is undersized and the original house was built in 1901 before the zoning code was written; the proposed structure will be one –story, built on the property line and the proposal was discussed with the neighbor who shares that 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 variances.

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 § 5.227 side and rear yard, variances are APPROVED with the Specific Condition that the applicant obtain a Rockland County Highway Work Permit prior to start of any excavation or construction on site; 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, and §5.227 side and rear yard, variances was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Ms. Castelli was absent for this hearing.

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: May 17, 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-D.M.

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, TOTAL SIDE YARD AND § 5.227 SIDE AND REAR YARD, VARIANCES APPROVED; INTERPRETATION DETERMINED IN FAVOR OF APPLICANT

To: Kenneth Albanese
92 Lincoln Avenue
Pearl River, New York 10965

ZBA #17-33
Date: May 17, 2017
Permit # 46172

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-33: Application of Kenneth Albanese for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .328 proposed), 9 (Side Yard: 10' required, 9.7' existing), 10 (Total Side Yard: 30' required, 25.7' existing) and from Section 5.227 (Accessory structure: 5' required for rear and side yard: 3' existing for rear yard and .8' and 1.2' existing for side yard) and for an interpretation for floor area ratio for basement. The premises are located at 92 Lincoln Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 3, Lot 41; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 17, 2017 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, and Kenneth Albanese appeared and testified.

The following documents were presented:

1. Survey for Albanese dated October 12, 2016 signed and sealed by Robert R. Rahnefeld, P L.S..
2. Architectural plans dated December 15, 2017 by Jane Slavin, Registered Architect.
3. An e-mail dated April 3, 2017 from John Giardiello, P.E., Director, Orangetown Office of Building, Zoning, Planning, Administration and Enforcement.

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); since the applicant also requires an interpretation of an existing code, rule or regulation, this aspect of the application is exempt from environmental review under the State Environmental Quality Review Act pursuant to SEQRA Regulations 617.5 (c) (31); 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.

Jane Slavin, Architect, testified that they are before the Board to legalize a deck that was built in the 1980's and an additional roofed over area that has a hot tub; that these structures were built along the existing house line, straight back into the rear yard; that the existing side yard was not changed; that there are also two sheds on the property that do not meet the setbacks for accessory structures, one in the northeast corner that is 6.4 x 8.7 and the other is a small garage that is 9' x 16'; that they are requesting an interpretation of the basement/cellar when considering floor area ratio; that the zoning code and building code do not speak to each other, that the zoning code states that if more than 50% is below grade then it is a cellar and more than 50% of this cellar is below

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grade and should not count in the floor area calculation.

Kenneth Albanese testified that he purchased the house 39 years ago.

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, total side yard, and §5.227 accessory structure side and rear yard, variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The structures have existed since the early 1980's without incident or complaint and the applicant has provided professionally sealed and stamped plans certifying the construction.
2. The requested floor area ratio, side yard, total side yard, and §5.227 accessory structure side and rear yard, variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The structures have existed since the early 1980's without incident or complaint and the applicant has provided professionally sealed and stamped plans certifying the 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, total side yard, and §5.227 accessory structure side and rear yard, 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 structures have existed since the early 1980's without incident or complaint and the applicant has provided professionally sealed and stamped plans certifying the construction.
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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6. ZBA Interpretation determination, decided in favor of Applicant, that he the ZBA found that the basement is a cellar, and, therefore, the floor area is not included in the floor area ratio calculations.

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, and §5.227 accessory structure side and rear yard variances are APPROVED; and the ZBA Interpretation determination, decided in favor of Applicant, that he the ZBA found that the basement is a cellar, and, therefore, the floor area is not included in the floor area ratio calculations; 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, total side yard, and §5.227 accessory structure side and rear yard variances; and the ZBA Interpretation determination, decided in favor of Applicant, that he the ZBA found that the basement is a cellar, and, therefore, the floor area is not included in the floor area ratio calculations; was presented and moved by Mr. Sullivan, 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: May 17, 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-M.M.

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, LOT WIDTH, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: John and Danielle Rowan
49 Douglas Court
Pearl River, New York 10965

ZBA #17-35
Date: May 17, 2017
Permit # 46286

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-35: Application of John and Danielle Rowan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area ratio: .20 permitted, .2612 proposed), 5 (Lot Width: 100' required, 85' existing), 8 (Front Yard: 30' required, 22.4' proposed), 9 (Side Yard: 20' required, 17' 6" proposed), 10 (Total Side Yard: 50' required, 40.5' proposed) and 12 (Building Height: 17' 6" & 22' 2" permitted, 24' 6" and 25' 3" proposed) for a renovation and addition to an existing single family residence. The premises are located at 49 Douglas Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 42; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 17, 2017 at which time the Board made the determination hereinafter set forth.

Karl Ackerman, Architect, and John Rowan appeared and testified.

The following documents were presented:

1. Architectural plans dated March 18, 2017 with the latest revision date of March 30, 2017 signed and sealed by Karl Ackermann, Registered Architect. (4 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.

Karl Ackermann, Architect, testified that the house is in disrepair and has been for some time; that it was left this way for many years; that it has been purchased and the plan is to bring it back and make a great residence; that they are proposing to add a front porch will require a variance and to add a deck to the rear of the house and a complete second story; that the pre-existing non-conforming side yard and total side yard cause the building height variance; that the existing side entrance will be removed, improving the side yard slightly; and these improvements will make the neighbors very happy.

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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 floor area ratio, lot width, front yard, side yard, total 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 lot width, side yard and total side yard variances are existing and are not changing. The existing house has sat for many years in disrepair and these plans will greatly improve the lot and be beneficial to the neighborhood.
2. The requested floor area ratio, lot width, front yard, side yard, total 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 lot width, side yard and total side yard variances are existing and are not changing. The existing house has sat for many years in disrepair and these plans will greatly improve the lot and be beneficial to 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, lot width, front yard, side yard, total 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 lot width, side yard and total side yard variances are existing and are not changing. The existing house has sat for many years in disrepair and these plans will greatly improve the lot and be beneficial to 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 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, lot width, front yard, side yard, total 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, lot width, front yard, side yard, total side yard and building height variances was presented and moved by Mr. Bosco, seconded by Ms. Castelli 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: May 17, 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-R.A.O.

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

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TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND TOTAL SIDE YARD
VARIANCES APPROVED**

To: Jane Schon
8 Hillaire Place
Palisades, New York 10954

ZBA #17-36
Date: May 17, 2017
Permit # 46250

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-36: Application of Jane Schon for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .24 proposed), 8 (Front Yard: 30' required, 24.3' proposed), 9 (Side Yard: 20' required, 14.5' proposed), 10 (Total Side Yard: 50' required, 41' proposed) for a renovation and addition to an existing single family residence. The premises are located at 8 Hillaire Place, Nanuet, New York and are identified on the Orangetown Tax Map as Section 69.06, Block 1, Lot 10; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 17, 2017 at which time the Board made the determination hereinafter set forth.

Jane P. Schon, Jane C. Shon and Christopher Kendell appeared and testified.

The following documents were presented:

1. Architectural plans dated March 6, 2017 by Kier B. Levesque, Registered Architect. (3 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.

Jane Schon testified that she has lived in this house for last 28 years; that it is her childhood home; that her Dad passed away in 2010 and the house is a getting to be too much for her Mom, by herself; that she and Christopher are getting married in October and they all discussed it, and decided that it would be beneficial for all of them to live together; that they would like to fill in the southwest corner of the house to expand the living room downstairs and add a bedroom above it; that they are proposing a full second story, presently the second floor is a Cape style without dormers; that the rear patio would be filled in and become part of the kitchen; and they are planning to expand the existing garage widening it be five feet and making it three feet deeper; that Christopher is a mechanic and he maintains fire trucks and has many tools and tool boxes; that they plan are maintaining room in the garage for her mom's car and for Christopher's many tools; that they would be using upstairs as their main living area and her mom would have downstairs and thy would share the kitchen.

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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 floor area ratio, front yard, 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. The proposed additions will make it possible for the extended family to share their family home, affording each generation some privacy.
2. The requested floor area ratio, front yard, 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. The proposed additions will make it possible for the extended family to share their family home, affording each generation some privacy.
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, front yard, side yard and total side yard 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 proposed additions will make it possible for the extended family to share their family home, affording each generation some privacy.
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, front yard, side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard and total side yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli 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: May 17, 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-M.M.

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

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DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Shane Wiley
499 Orangeburg Road
Pearl River, New York 10965

ZBA #17-37
Date: May 17, 2017
Permit # 46271

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-37: Application of Shane Wiley for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.226 (Front Yard Fence Height: 4 ½' permitted, 6' proposed & existing) for an existing fence at an existing single family residence. The premises are located at 499 Orangeburg Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 1, Lot 28; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 17, 2017 at which time the Board made the determination hereinafter set forth.

Shane and Yaixia Wiley appeared and testified.

The following documents were presented:

1. Survey for Julianne Wiley dated March 10, 1980 with the area of the fence highlighted, by Albert R. Sporaco Jr.

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.

Shane Wiley testified that he installed a six-foot fence 239 feet back from the road; that his lot is a flag lot and he did not realize that this would be considered a front yard; that he did not know that he needed a variance, until his neighbor complained and he was told by Mr. McPherson that he needed to apply for a building permit and to the Zoning Board; that is how, he ended up here.

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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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The six-foot fence is set back 239 feet from the road and is not easily visible from the street.
2. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The six-foot fence is set back 239 feet from the road and is not easily visible from the street.
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 front yard fence height 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. The six-foot fence is set back 239 feet from the road and is not easily visible from the street.
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 front yard fence 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.

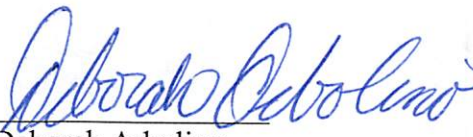
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The foregoing resolution to approve the application for the requested front yard fence height variance was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, 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: May 17, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
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FILE, ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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and has not been reported to the State Department since the
departure of the vessel from the port of New York on the 10th of
April 1918. The vessel was reported to have been sighted
on the 12th of April 1918.

The vessel was reported to have been sighted on the 12th of
April 1918.

Very truly yours,
[Signature]

[Signature]

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