

DECISION

EXTENSION OF NON-CONFORMING BULK VARIANCE APPROVED

To: William and Jaclyn Dowling
207 Ann Street
Pearl River, New York 10965

ZBA #20-23
Date: May 6, 2020
Permit #49785

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-23: Application of William and Jaclyn Dowling for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Section 9.2 (Non-Conforming Bulk shall not be increased: side yard: 20' required, 12.6' & 13' existing and proposed) for a dormer at an existing single-family residence. The premises are located at 207 Ann Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 73.05, Block 1, Lot 7 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 6, 2020 at which time the Board made the determination hereinafter set forth.

William Dowling appeared and testified.

The following documents were presented:

1. Plans labeled "Mr. & Mrs. Dowling 207 Anne Street Pearl River" 02/07/2020 signed and sealed by John J. Gilchrist, Architect.

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

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

William Dowling testified that he needs a variance to dormer his second floor; that presently it is one large room and they would like to dormer the space and make two bedrooms and two bathrooms upstairs; that the house is small and since they purchased the house in October 2013, their family has expanded; that they have a two year old and a two week old; that there is a portable shed in the back yard in the left corner of the lot; that it is probably three feet from the rear yard and five feet from the side yard and it is a 10' x 8' shed; and that it can be moved to be five feet from both yards.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
2020 MAY 18 P 3:10
TOWN CLERK'S OFFICE

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 extension of non-conforming bulk variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The side yards exist at 12.6 and 13' and the applicant is only adding a dormer.
2. There is an existing 10' x 8' shed in the left corner of the rear yard that the applicant is moving to be 5' from the rear yard and 5' from the side yard.
3. The requested extension of non-conforming bulk variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The side yards exist at 12.6' and 13' and the applicant is only adding a dormer.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested extension of non-conforming bulk variance is 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 side yards exist at 12.6' and 13' and the applicant is only adding a dormer.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2020 MAY 18 P 3: 09
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested extension of non-conforming bulk variance (side yard 12.6' & 13') 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.


TOWN OF ORANGETOWN
2020 MAY 18 P 3: 09
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested extension of non-conforming bulk variance (side yard 12.6' & 13') is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: May 6, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-D.M.

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

TOWN OF ORANGETOWN
2020 MAY 18 P 3:09
TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO, LOT AREA, LOT WIDTH, FRONT YARD, SIDE YARD,
TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED:
UNDERSIZED LOT ACKNOWLEDGED**

To: Ryan and Kerri Deis
4 Villa Road
Pearl River, New York 10965

ZBA #20-24
Date: May 6, 2020
Permit #49733

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-24: Application of Ryan and Kerri Deis for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .15 existing, .25 proposed), 5 (Lot Area: 15,000 sq. ft. required, 11,325 sq. ft. existing and proposed), 6 (Lot Width: 100' required, 75' existing and proposed) (Section 5.21 Undersized lot applies), 8 (Front Yard: 30' required, 28' existing, 22' proposed), 9 (Side Yard: 15' required, 15.8' existing, 11.2' proposed), 10 (Total Side Yard: 30' required, 39' existing, 27' proposed) and 12 (Building Height: 20' permitted, 16' existing, 25' 3" proposed) for an addition to an existing single-family residence. The premises are located at 4 Villa Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 58 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 6, 2020 at which time the Board made the determination hereinafter set forth.

Ryan Deis and Kerri Deis and Rob Palmerini, Architect, testified.

The following documents were presented:

1. Plans labeled "Renovation & Second Floor Addition for Deis Residence 4 Villa Road, Pearl River" dated January 14, 2020 with the latest revision date of January 29, 2020 not signed or sealed by ROAM Architecture,
2. A letter in support of the application from Sheila and Brian Cory , 10 Villa Road, Pearl River.(referenced during the hearing, found by the clerk the day after the hearing with apologies)
3. A 3-D rendering of the proposed changes to the house.

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

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

Rob Palmerini, Architect, testified that the existing single-story house is 1,221 sq. ft. with a 200 square foot detached garage that is in the rear of the property; that the house was built in the Deis

TOWN CLERK'S OFFICE

2020 MAY 18 P 3:09

TOWN OF ORANGETOWN

1950's; that the proposal is to remove the existing detached garage and add a single-car garage to the right side of the house, reconfigure the main level and add a second story with an additional 900 sq. ft. with three bedrooms and a guest bedroom on the first floor; that they are also proposing to add a covered porch to the front of the house and to keep the existing deck in the rear of the house; that the porch would be six foot wide and twenty feet long; that the existing floor area ratio is 15% and the proposed is 255; but if the lot was conforming the floor are would be 19%; that the building height is restricted because of the undersize lot and the building height would be 25' 3".

Kerri Deis testified that they purchased the house from her father-in-law; that they both grew up in Pearl River and want to raise their family here; that there is a large modular house across the street and a similar addition was constructed two houses up on the left and their neighbors at 10 Villa, the Cory's submitted a letter in support of their application.

Ryan Deis testified that the traffic pattern in the area is light except on Sundays when everyone is going to St. Aedens; that the proposed addition is in keeping with the character of the area; that many people have added onto the original 1950's houses.

Public Comment:

Donald Brenner stated that he was listening in to see how the meeting works for himself for next week.

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 area, 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 Board acknowledged that the lot is undersized. Similar additions have been constructed in the neighborhood.

TOWN OF ORANGETOWN
2020 MAY 18 P 3:09
TOWN CLERK'S OFFICE

2. The requested floor area ratio, lot area, 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 Board acknowledged that the lot is undersized. Similar additions have been constructed 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 a variance.
4. The requested floor area ratio, lot area, 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 Board acknowledged that the lot is undersized. Similar additions have been constructed 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 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, lot area, 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.

~~Deis~~

TOWN CLERK'S OFFICE
2020 MAY 18 P 3:09
TOWN OF ORANGETOWN

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested floor area ratio, lot area, lot width, front yard, side yard, total side yard and building height variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: May 6, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
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CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERK'S OFFICE
2020 MAY 18 P 3:09
TOWN OF ORANGETOWN

DECISION

FRONT YARD AND REAR YARD VARIANCES APPROVED

To: Edelweiss Construction
225 Valley Road
Valley Cottage, New York 10989

ZBA #20-25
Date: May 6, 2020
Permit #48863

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-25: Application of Edelweiss Construction for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.21 Undersize lot applies, Section 3.12, Column 8 (Front Yard: 30' required, 25.5' proposed) and 11 (Rear Yard: 35' required, 16.8' proposed) for a deck at a new single-family residence. The premises are located at 2 South Mary Francis Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 5 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 18, 2020 at which time the Board made the determination hereinafter set forth.

Danny Roggensinger, and Peter Edelweiss, Edelweiss Construction, testified.

The following documents were presented:

1. Plans labeled "New Residence 2 S. Mary Frances Street, Tappan, NY" dated July 1, 2019 with the latest revision date of 1/26/2020 signed and sealed by Joshua C. Jakob, Architect.
2. Plot plan dated 5/16/2019 with the latest revision date of 2/3/2020 signed and sealed by Jay A. Greenwell, PLS.
3. A letter dated February 26, 2020 from Rockland County Department of planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated March 16, 2020 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. No comments at this time response from Dyan Rajasingham Rockland County Highway Department dated 2/14/ 2020 and Elizabeth Mello, P.E., Rockland County Health Department dated March 15, 2020.

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

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

TOWN CLERK'S OFFICE
2020 MAY 18 P 3:09
TOWN OF ORANGETOWN

Danny Roggensinger testified that they appeared before the Board in July last year and were granted variances to build this house; that the architect's plans and the surveyor's plans were not in sync and there is a 5 foot drop off the sliding glass doors in the dining room that leads the patio that was approved by ACABOR; that they did not want to add a staircase up to the slider because it would look bad and that is why they are proposing the 6' wide deck with stairs down to the approved patio; that the pandemic has held everything up and they have a buyer for the house and would like to finish and sell it.

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 and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. These changes are minor and the proposed deck is necessary because of the change in grade.
2. The requested front yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. These changes are minor and the proposed deck is necessary because of the change in grade.
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 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. These changes are minor and the proposed deck is necessary because of the change in grade.

TOWN CLERK'S OFFICE
2020 MAY 18 P 3:09
TOWN OF ORANGETOWN

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 front 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.

TOWN CLERK'S OFFICE

2020 MAY 18 P 3:09


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard and rear yard variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: May 6, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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TOWN OF ORANGETOWN
2020 MAY 18 P 3: 09
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