

MINUTES
ZONING BOARD OF APPEALS
September 5, 2018

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

ABSENT: NONE

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

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

CONTINUED ITEM:

APPLICATION OF ORANGETOWN OFFICE OF BUILDING, ZBA# 18-19
ZONING AND PLANNING ADMINISTRATION
AND ENFORCEMENT:IMPLEMENTATION OF SPECIFIC
CONDITIONS FROM ZBA DECISION #17-31
DATED 05/11/2017 REGARDING
API INDUSTRIES INC. d/b/a ALUF PLASTICS
FOR SELECTION OF AN EXPERT FROM THE RFP
2 Glenshaw Drive
Orangeburg, NY
70.18 / 2 / 15; LI zone
The Zoning Board selected Fellenzer Engineering, LLP as expert consultants for ZBA#18-19 based on their proposal dated August 3, 2018, motion made by Mr. Sullivan, seconded by Ms. Castelli and carried unanimously.

NEW ITEMS:

BOND FRONT YARD ZBA#18-51
67 Wildwood Drive VARIANCE APPROVED
Pearl River, NY
69.17 / 4 / 24; R-15 zone

TOWN OF ORANGETOWN
SEP 13 2018
TOWN CLERK

CARUSO §5.153 ACCESSORY STRUCTURE ZBA#18-52
32 Ross Place DISTANCE TO PRINCIPAL BUILDING
Tappan, NY AND §5.227 ACCESSORY STRUCTURE
74.17 / 4 / 45; R-15 zone DISTANCE TO REAR YARD FOR POOL
AND SHED VARIANCES APPROVED

BURKE FRONT YARD FENCE ZBA#18-53
48 Phillips Lane HEIGHT VARIANCE
Pearl River, NY APPROVED
69.17 / 5 / 15; R-15 zone

FENNEL SIDE YARD, TOTAL SIDE ZBA#18-54
19 Greene Street YARD AND REAR YARD
Tappan, NY VARIANCES APPROVED
77.06 / 2 / 29; R-15 zone

BLESS ENTERPRISE FRONT YARD, SIDE YARD, ZBA#18-55
187 Route 303 REAR YARD, §3.11, LI DISTRICT,
Orangeburg, NY § 13.10(B)(6)(PRE-EXISTING USE) AND §13.10 (B)(2)
74.15 / 1 / 8; LI zone (VEGETATIVE BUFFER) AND §9.34
(50% ONE TIME EXPANSION) APPROVED

PALISADES VETERINARY SPECIAL PERMIT, LOT AREA, ZBA#18-56
HOSPITAL LOT WIDTH, SIDE YARD, TOTAL
37 Hunt Road SIDE YARD AND ACCESSORY STRUCTURE
Orangeburg, NY REAR YARD VARIANCES APPROVED
73.15 / 1 / 11; R-80 zone

TOWN OF ORANGETOWN
2018 SEP 13 PM 3:14
TOWN CLERK'S OFFICE

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 application: Lia Toyota Site Plan Parking expansion, 618 Route 303, Blauvelt, NY, 65.18 / 1 / 7; LI/LIO zoning districts; Bethany Mar Thoma Church Site Plan, 90 Old Orangeburg Road, Orangeburg, NY 74.09 / 1 / 64; R-80 zone; Kibria Subdivision Plan, 571 Route 303, Blauvelt, NY 70.15/1/43.1; R-15 zone; Skae Site Plan, 337-330 Blaisdell Road, Orangeburg, NY 76.08 / 1 / 3 & 4; LIO zone; Schelin Re-Subdivision Plan, 65 & 75 Lawrence Street, Tappan NY 77.15/ 3/ 14 & 15; R-15 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

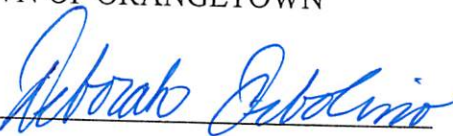
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 10:00 P.M.

Dated: September 5, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN CLERK'S OFFICE
2018 SEP 13 P 2:14
TOWN OF ORANGETOWN

DECISION

FRONT YARD VARIANCE APPROVED

To: Brian and Jennifer Bond
67 Wildwood Drive
Pearl River, NY 10965

ZBA #18-51
Date: September 5, 2018
Permit #47724

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-51: Application of Brian and Jennifer Bond for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12 Column 8 (Front Yard: 30' required, 27' proposed) for a front porch addition at an existing single-family house. The premises are located at 67 Wildwood Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 4, Lot 24; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 5, 2018 at which time the Board made the determination hereinafter set forth.

Brian and Jennifer Bond appeared and testified.

The following documents were presented:

1. Site Plan and Architectural plans dated May 23, 2018 labeled "Bond" not signed or sealed by Eric Jacobsen, 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 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Brian Bond testified that they would like to add a front porch to the existing house to increase the curb appeal of the house and to have a covering over the front door because it is warped from the sun; that the street has very little car traffic and quite a bit of pedestrian and bicycle traffic and that they are planning on having a children and would like the front porch to sit on while they watch all the kids playing in the neighborhood; that the neighbors to the left and the right have both added covered entries.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
2018 SEP 13 P 2:14
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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard variance, although 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. Similar additions have been constructed in the area.
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.

TOWN OF ORANGETOWN
2018 SEP 13 P 2:14
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 front yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

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

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

TOWN OF ORANGETOWN
2018 SEP 13 P 2:14
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested front yard variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, 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: September 5, 2018

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
2018 SEP 13 P 2:14
TOWN CLERK'S OFFICE

DECISION

§5.227 REAR YARD FOR POOL;§ 5.227 REAR YARD FOR SHED;§ 5.153 DISTANCE BETWEEN SHED AND PRINCIPAL BUILDING VARIANCES APPROVED

To: William Caruso
32 Ross Place
Tappan, NY 10983

ZBA #18-52
Date: September 5, 2018
Permit #47479

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-52: Application of William Caruso for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.227 (Rear Yard for swimming pool: 20' required, 16' 8" existing) and for an existing shed rear yard: 5' required, 3' 3" existing and from Section 5.153 (Distance between principal structure and accessory structure: 15' required, 5' existing for a shed) for an existing pool and sheds at an existing single-family residence located at 32 Ross Place, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.17, Block 4, Lot 45; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 5, 2018 at which time the Board made the determination hereinafter set forth.

William Caruso and Heather Diamond appeared and testified.

The following documents were presented:

1. Survey dated 11/7/2017 signed and sealed by Anthony R. Celentano, P.L.S..

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

William Caruso testified that they purchased the house from the previous owner just before their son was born; that they found out right before closing that the existing pool did not have a certificate of occupancy; that they purchased the house knowing that they needed to correct the situation because they were anxious to be settled into a house before the birth of their first child; that they found out that the two existing sheds were also built without permits when they applied for the pool permit; that they are before the Board to legalize the two sheds and the pool.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
ZONING BOARD OF APPEALS
2018 SEP 13 PM 2:14

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 § 5.227 rear yard for pool, §5.227 rear yard for shed and § 5.153 distance between principal structure and shed variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The two sheds and the pool have existed for some time without incident and the applicant is legalizing the structures.
2. The requested § 5.227 rear yard for pool, §5.227 rear yard for shed and § 5.153 distance between principal structure and shed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The two sheds and the pool have existed for some time without incident and the applicant is legalizing the structures.
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 § 5.227 rear yard for pool, §5.227 rear yard for shed and § 5.153 distance between principal structure and shed 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 two sheds and the pool have existed for some time without incident and the applicant is legalizing the structures.
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.

TOWN OF ORANGETOWN
2018 SEP 13 P 2:14
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 § 5.227 rear yard for pool, §5.227 rear yard for shed and § 5.153 distance between principal structure and shed 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
2018 SEP 13 P 2:15
TOWN OF ORANGETOWN

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The foregoing resolution to approve the application for the requested § 5.227 rear yard for pool, §5.227 rear yard for shed and § 5.153 distance between principal structure and shed variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, 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: September 5, 2018

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 CLERK'S OFFICE
2018 SEP 13 P 2:15
TOWN OF ORANGETOWN

DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Michael and Kathleen Burke
48 Phillips Lane
Pearl River, NY 10965

ZBA #18-53
Date: September 5, 2018
Permit #47787

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-53: Application of Michael and Kathleen Burke for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.226 (Front Yard Fence Height: 4 ½' permitted, 6' proposed) for a six-foot fence at an existing single-family residence. The premises are located at 48 Phillips Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 5, Lot 15 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 5, 2018 at which time the Board made the determination hereinafter set forth.

Michael and Kathleen Burke appeared and testified.

The following documents were presented:

1. Copy of the survey with the fence location drawn on it.
2. Six pages of fence details.

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

Michael Burke testified that their existing 4 ½' fence was damaged in the last storm by a tree limb; that their neighbor has an existing six-foot fence and it looks very nice and affords them some privacy; that they have a pool in the rear yard and would like to install a six-foot fence to meet their neighbors' fence; that the front yard is really their back yard but it has street frontage, which by code makes it a front yard; and that the neighbor they would be lining the fence up with is James Mulcahy at 49 Lenape Road, Pearl River, NY.

Public Comment:

No public comment

TOWN OF ORANGETOWN
2018 SEP 13 PM 2:13
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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has two front yards abutting roads that are well traveled. The proposed six-foot fence will line up with James Mulcahy's fence at 49 Lenape Road, Pearl River, NY.
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 applicant has two front yards abutting roads that are well traveled. The proposed six-foot fence will line up with James Mulcahy's fence at 49 Lenape Road, Pearl River, NY.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard 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 applicant has two front yards abutting roads that are well traveled. The proposed six-foot fence will line up with James Mulcahy's fence at 49 Lenape Road, Pearl River, NY.
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.

TOWN OF ORANGETOWN
2018 SEP 13 P 2:18
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 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.

TOWN OF ORANGETOWN
2018 SEP 13 P 2:15
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested front yard fence height variance is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, 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: September 5, 2018

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

TOWN OF ORANGETOWN
2018 SEP 13 P 2:15
TOWN CLERK'S OFFICE

DECISION

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

To: Gina Fennel
19 Greene Street
Tappan, New York
10983

ZBA #18-54
Date: September 5, 2018
Permit #47783

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-54: Application of Gina Fennel for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 15' required, 13.3' proposed), 10 (Total Side Yard: 30' required, 23.8' proposed) and 11 (Rear Yard: 35' required, 21' proposed) (Section 5.21 Undersized lot applies) for a deck at an existing single-family residence. The premises are located at 19 Greene Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 2, Lot 29 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 5, 2018 at which time the Board made the determination hereinafter set forth.

Gina Fennell appeared and testified.

The following documents were presented:

1. Site Plan based on survey by Robert Rahnefeld dated April 29, 2005 with the deck drawn on by applicant.
2. Two pages of deck plans by applicant.

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

Gina Fennel testified that she would like to add a deck and stairs in the rear of the house; that the stairs would go out six feet and she could use the space under the deck for storage; that they have been in the house for two years and it was described by the real estate agent as cozy.

Public Comment:

No public comment.

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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 side yard, total side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the area and the majority of the houses in the area are constructed on undersized lots.
2. The requested side yard, total side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks have been constructed in the area and the majority of the houses in the area are constructed on undersized lots.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar decks have been constructed in the area and the majority of the houses in the area are constructed on undersized lots.
4. The requested side yard, total side 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. Similar decks have been constructed in the area and the majority of the houses in the area are constructed on undersized lots.
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 side yard, total side yard and rear yard variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

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

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

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The foregoing resolution to approve the application for the requested side yard, total side yard and rear yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, 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: September 5, 2018

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

FRONT YARD, SIDE YARD, REAR YARD VARIANCES AND § 3.11 COLUMN 6 #4 PARKING (REQUIREMENTS MET: NO VARIANCE REQUIRED); §13.10 (B) (6) PRE-EXISTING AUTO REPAIR SHOP; §13.10 B(2) VEGETATIVE BUFFER; AND §9.34 EXTENSION OR EXPANSION OF NON-CONFORMING USE VARIANCES APPROVED

To: Donald Brenner (Bless Enterprise)
4 Independence Avenue
Tappan, New York 10983

ZBA #18-55
Date: September 5, 2018
Permit #45330

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-55: Application of Bless Enterprise for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Column 8 (Front Yard), Column 9 (Side Yard), Column 11 (Rear Yard) and from Section 3.11, LI District, Column 6 refers to CS District, Column 6 # 4 (parking spaces required: requirements met) and from Section 13.10 (B)(6) (Pre-existing use as Auto repair shop); Section 13.10 (B) (2) (25' wide vegetative buffer required) and from Section 9.34 (Extension or Enlargement of a non-conforming use: One time expansion up to but not exceeding an aggregate of 50% of its floor area) for the expansion of an existing Auto repair Business. The Business is located at 187 Route 303, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 8; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 5, 2018 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Valentine Herrera appeared and testified.

The following documents were presented:

1. Site Plan, Elevations, Notes and Zoning Analysis dated 04/13/2016 signed and sealed by William A. Truss, P.E., with the latest revision date of 06/06/2018. (1 page)
2. A letter dated February 22, 2017 from John Giardiello, P.E. former Director of the Office of Building, Zoning, Planning, Administration and Enforcement, Town of Orangetown.
3. Planning Board decision #16-59 dated September 13, 2017 Preliminary Site Plan Approval subject to Conditions /Neg. Dec..
4. Three letters dated October 4, 2016, August 22, 2017, and August 2, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated August 30, 2018 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated September 23, 2016 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
7. A letter dated August 24, 2018 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer,

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

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On advice of Denise Sullivan, 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 these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on September 14, 2017 rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Feroldi, aye; and Ms. Salomon, aye.

Donald Brenner, Attorney, testified that this automobile repair shop has existed in its present location since 1956 and showed the Board papers from the assessor's office; that the property was zoned M District, which allowed automobile repair with no restrictions; that the present zoning is putting restrictions on a pre-existing non-conforming use that has operated since 1956; that they are proposing an addition to the existing 1016 sq. ft. building in order to bring the outside repair inside and to permit more storage of materials; that they were in court but worked out a deal with Mr. Giardiello that they would apply for the one-time 50% expansion and get variances for the other pre-existing non-conforming conditions; that they will have 21 parking spaces but only 19 spaces will be outside and two additional spaces will be inside the garage bays/ work area; that the lot is too small to accommodate the 25' planting area and because of that they are requesting a variance to allow a ten foot area for planting; that they are asking the Board to override the conditions imposed by Rockland County Planning because the Planning Board already overrode those almost identical conditions from their letter dated October 4, 2016 and at the meeting of September 13, 2017 the Orangetown Planning Board granted a preliminary approval and a neg dec subject to the applicant getting variances; that the applicant has stated that he will no longer keep cars or vans without plates on site.

Valentine Herrera, owner testified that presently there are two unlicensed vans on the property that are used to store car parts; that when he gets approval to expand the building he will no longer need to store car parts in the vans and they will be removed from the site; that all other cars on the site will be licensed; and that cars during the day are being dropped off and picked up at all hours when the repairs are done.

Public Comment:

No public comment.

The Board discussed at length the comments from the Rockland County Department of Planning letter dated August 2, 2018. The site plan does show 19 outside parking spaces but there are an additional two parking spaces available inside the existing bays; that if the Board grants the 50% expansion the applicant would no longer be performing work on the outside bay because it would be inside the addition; that the applicant did admit that there are two unlicensed vans on the site that are used to store car parts and these vans would have to be removed from the site in order for the application to move forward; that the property is undersized with more than 1,000

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sq. ft. of property behind the building; that if the Board required the applicant to meet the Route 303 Overlay planting requirement of a 25' planting area, it would impose too harsh a hardship on the applicant and that because of the size of the property and the required turning radius for emergency vehicles, the 10' wide planting area would be sufficient; and that the proposed expansion would actually improve the appearance of the property because all work would be done inside the building and there would be additional storage area within the building. The Board also noted that in Planning Board decision #16-59 dated September 13, 2017, the Planning Board over-rode comments from Rockland County Department of Planning Disapproval letter dated August 22, 2017 letter, in order to move the project forward and establish a set number of parking spaces and a Site Plan for the project site (see pages 12, 13 & 14 of Decision #16-59: Bless Enterprises Auto Shop Site Plan).

For all the reasons stated above and those named in the Planning Board Decision #16-59 dated September 13, 2017 and those set forth hereafter, Ms. Castelli made a motion to over-ride the Rockland County Department of Planning Letter dated August 2, 2018 from Douglas J. Schuetz, Acting Commissioner paragraph labeled "Disapprove" including paragraph #1 as the purposed of this application for variances is to address the property constraints including repair work outside that will now be completed inside the bays and the addition, the nonworking vans that applicant is currently using as storage will be removed and storage will be contained within the new addition and existing building, and the 21 spaces will be provided for customers and cars waiting to be repaired; paragraph #2 as a parking variance is not required as the applicant has provided 19 spaces on the grounds and 2 spaces inside the 3 garage bays; paragraph #3 as the Town does not publish the number of spaces in the public hearing notice ;paragraph #4 as the drawings submitted clearly indicate the number of spaces required and requested as shown in the Parking Table with 21 spaces provided}, and paragraph #5 as the purposed of the addition is to add an addition and an additional bay to be used for repair work so that no work will be conducted outside the garage bays; which motion was seconded by Ms. Salomon and carried unanimously.

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:

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1. The requested front yard, side yard, rear yard, § 13.10 (B) (6) pre-existing auto repair shop, § 13.10 B(2) vegetative buffer, and § 9.34 extension or expansion of non-conforming use; variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed 593 sq. ft. addition to the existing building will remove the outside lift and cars will no longer be serviced outside, and the additional space will provide inside storage of parts needed for repairs. The applicant has stated that there are two unlicensed vans on site that are presently used to store car parts and they shall be removed from site and all storage of car parts shall be inside the building. The updated plan shows 19 parking spaces outside and 2 spaces inside the building, having an updated site plan will provide a set parking plan that shall be used for overnight storage of vehicles that are being serviced at the repair shop. **No unregistered vehicles** shall be parked or stored on the site at any time either inside or outside.

2. The requested front yard, side yard, rear yard, and § 3.11, § 13.10 (B) (6) pre-existing auto repair shop, § 13.10 B (2) vegetative buffer, and § 9.34 extension or expansion of non-conforming use; variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed 593 sq. ft. addition to the existing building will remove the outside lift and cars will no longer be serviced outside, and the additional space will provide inside storage of parts needed for repairs. The applicant has stated that there are two unlicensed vans on site that are presently used to store car parts and they shall be removed from site and all storage of car parts shall be inside the building. The updated plan shows 19 parking spaces outside and 2 spaces inside the building, having an updated site plan will provide a set parking plan that shall be used for overnight storage of vehicles that are being serviced at the repair shop. **No unregistered vehicles** shall be parked or stored on the site at any time either inside or outside.

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, side yard, rear yard, and § 3.11, § 13.10 (B) (6) pre-existing auto repair shop, § 13.10 B(2) vegetative buffer, and § 9.34 extension or expansion of non-conforming 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 593 sq. ft. addition to the existing building will remove the outside lift and cars will no longer be serviced outside, and the additional space will provide inside storage of parts needed for repairs. The applicant has stated that there are two unlicensed vans on site that are presently used to store car parts and they shall be removed from site and all storage of car parts shall be inside the building. The updated plan shows 19 parking spaces outside and 2 spaces inside the building, having an updated site plan will provide a set parking plan that shall be used for overnight storage of vehicles that are being serviced at the repair shop. **No unregistered vehicles** shall be parked or stored on the site at any time either inside or outside.

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 front yard, side yard, rear yard, and § 3.11, § 13.10 (B) (6) pre-existing auto repair shop, § 13.10 B(2) vegetative buffer, and § 9.34 extension or expansion of non-conforming 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.

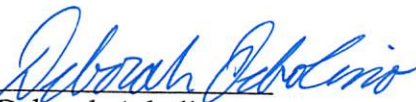
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The foregoing resolution to approve the application for the requested front yard, side yard, rear yard, and § 3.11, § 13.10 (B) (6) pre-existing auto repair shop, § 13.10 B(2) vegetative buffer, and § 9.34 extension or expansion of non-conforming variances 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; Ms. Salomon, 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: September 5, 2018

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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DECISION

§ 3.11, R-80, COLUMN 3 #7 USE BY SPECIAL PERMIT; LOT AREA, LOT WIDTH, SIDE YARD, TOTAL SIDE YARD AND § 5.227 ACCESSORY STRUCTURE REAR YARD VARIANCES APPROVED

To: Jay Samuelson, P.E., (Palisades Veterinary Hospital)
71 Clinton Street
Montgomery, NY 12549

ZBA #18-56
Date: September 5, 2018
Permit #47854

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-56: Application of Palisades Veterinary Hospital for a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.11, R-80 District, Column 3 Uses by Special Permit #7 (Animal Hospitals) and from Section 3.12, R-80 District,, Group D, Columns 5 (Lot Area: 160,000 sq. ft. required, 61,071 sq. ft. existing); 6 (Lot Width: 300' required, 198.5' existing), 9 (Side Yard (100' required, 6.4' existing and proposed), 10 (Total Side Yard: 200' required, 119.9' proposed) and from Section 5.227 Accessory Structure in rear yard: (100' required, 6.4' and 5.1' proposed for two sheds) at a proposed Animal Hospital. The property is located at 37 Hunt Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 11; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 5, 2018 at which time the Board made the determination hereinafter set forth.

Ean Bauer, Veterinarian, and Jay Samuelson, P.E., appeared and testified.

The following documents were presented:

1. Site Plan dated 06/01/2018, latest revision date of 07/20/2018 signed and sealed by Jay Samuelson, P.E. (2 pages).
2. Cover letter dated June 1, 2018 signed by Jay Samuelson, P.E.
3. Entity Disclosure form dated August 1, 2018.
4. Short Environmental Assessment Form Part I dated 03/16/2018.
5. A letter dated August 28, 2018 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated August 23, 2018 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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 seeks a special permit for a proposed animal hospital in a zoned residential lot, this application is a Type II action and is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Mr. Bosco, aye.

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Ean Bauer testified that they are renovating the existing dwelling to accommodate the animal hospital, that they are moving from Route 303, right next to the previous applicant to this location; that they are expanding the building to the south and the building doesn't meet the total side yard setbacks; that they need a wide access aisle in the front of the building; that there is no dog run; that they occasionally have animals over night when they are recovering from surgery but they do not board animals; and all animals are kept inside the building.

Public Comment:

Donald Brenner, Attorney representing Brightview, asked if the animals are kept inside the building.

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 §3.11, R-80, Column 3 #7 Use by Special Permit, Lot Area, Lot Width, Side Yard, Total Side Yard and §5.227 Accessory Structure Rear Yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The building does not meet the required side yard and total side yard set-backs as it is and the proposed changes to the building will be an improvement for the neighborhood.
2. The requested §3.11, R-80, Column 3 #7 Use by Special Permit, Lot Area, Lot Width, Side Yard, Total Side Yard and §5.227 Accessory Structure Rear Yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The building does not meet the required side yard and total side yard set-backs as it is and the proposed changes to the building will be an improvement for the neighborhood.

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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 §3.11, R-80, Column 3 #7 Use by Special Permit, Lot Area, Lot Width, Side Yard, Total Side Yard and §5.227 Accessory Structure 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 building does not meet the required side yard and total side yard set-backs as it is and the proposed changes to the building will be an improvement for 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.

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the following Special Findings for the proposed Special Permit Use, as per Zoning Code Section 4.31, have been satisfactorily satisfied, for the following reasons:

1. The requested Special Permit will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
2. The granting of the Special Permit will not cause undue traffic congestion or create a traffic hazard.
3. The granting of the Special Permit will not create, at any point of determination set forth in Zoning Code Sections 4.16, 4.17 and 4.18 any more dangerous and objectionable elements, referred to in Section 4.11 than is characteristic of the uses expressly permitted as of right in the same Zoning District.
4. The requested Special Permit will not adversely affect the character of or property values in the area.
5. Will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.
6. The requested Special Permit will comply with all other regulations applicable to such use. For all Special Permit Uses a proposed plan, showing the size and location of the lot, design and location of the proposed facilities (including access drives, screening and streets within 1,000) feet) and a detailed description thereof must be submitted in accordance with rules prescribed by the Board (if any).
7. Before any Special Permit is granted, the applicant must secure approval of the proposed structure by the Town Engineer or the consulting engineers for the Town of Orangetown, if same has been requested or is otherwise required.

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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 §3.11, R-80, Column 3 #7 Use by Special Permit, Lot Area, Lot Width, Side Yard, Total Side Yard and §5.227 Accessory Structure 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.

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(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 §3.11, R-80, Column 3 #7 Use by Special Permit, Lot Area, Lot Width, Side Yard, Total Side Yard and §5.227 Accessory Structure Rear Yard variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, 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: September 5, 2018

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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