

MINUTES  
ZONING BOARD OF APPEALS  
April 5, 2017

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

ABSENT:                     PATRICIA CASTELLI

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

MACHADO	FLOOR AREA RATIO,	ZBA#17-25
33 Van Wardt Place	FRONT YARD, SIDE YARD	
Tappan, N.Y.	AND BUILDING HEIGHT VARIANCES	
77.15 / 1 / 67; R-15 zone	APPROVED	

BRAUER	FLOOR AREA RATIO, LOT	ZBA#17-26
69 Meadows Street	AREA, LOT WIDTH, FRONT YARD,	
Pearl River, NY	SIDE YARD, TOTAL SIDE YARD AND	
69.09 / 3 / 40; R-15 zone	REAR YARD VARIANCES APPROVED	

ROONEY	FLOOR AREA RATIO AND	ZBA#17-27
4 Alexa Court	SECTION 3.11, R-80 DISTRICT	
Pearl River, NY	COLUMN 2 #7 (ADDITIONAL DWELLING	
69.14 / 3 / 4.4; R-15 zone	UNIT OVER 600 SQ. FT.) VARIANCES	
	APPROVED	

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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Quinn Site Plan-Temporary Play Area, 103 Union Street, Sparkill, N.Y.; 77.08/ 5 / 48.2; CS zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

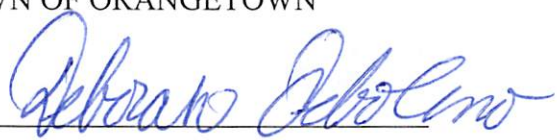
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:00 P.M.

Dated: April 5, 2017

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN OF ORANGETOWN  
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## DECISION

### FLOOR AREA RATIO, FRONT YARD, SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED

To: Dennis and Amy Machado  
33 Van Wardt Place  
Tappan, New York 10983

ZBA #17-25  
Date: April 5, 2017  
Permit # 45909

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-25: Application of Dennis and Amy Machado for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .22 proposed), 8 (Front Yard: 30' required, 26.7' proposed), 9 (Side Yard: 20' required, 8.9' proposed), and 12 (Building Height: 8.9' permitted, 13' proposed) for an addition to an existing single-family residence. The premises are located at 33 Van Wardt Place, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 67; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 5, 2017 at which time the Board made the determination hereinafter set forth.

Dennis and Amy Machado and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Survey for 33 Van Wardt Place Machado dated January 29, 2017 signed and sealed by Paul Gdanski, P.E., P.L. L.C..
2. Architectural plans dated March 10, 2016 with the latest revision date of September 28, 2016 signed and sealed by Jane Slavin, Registered Architect.
3. A letter dated April 5, 2017 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated March 16, 2017 from the Rockland County Health Department signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated March 27, 2017 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

Jane Slavin, Architect, testified that the proposed one story addition to the side of the house is 16' x 25' and will be a family room; that the addition of the master bedroom suite will be built above the existing house; that the floor area variance is generated from the new FEMA Floodplain Map; that the deduction for the floodplain change is 32,000 sq. ft.; that if the entire property was counted the floor area ratio would be 11%; that the side yard of 8.9' is abutting the adjacent lot which Mr. Machado owns; that property is in floodplain for approximately the same amount; that the existing garage is at elevation 38; that the floodplain has been determined to be at 38.5 and the finished floor on the new addition is at 38.5.

addition is 42' that going out the side of the house for the proposed addition is really the only feasible place to add on; that they would not be able to go out into the rear because of the floodplain; and that the addition will have a crawl space below it with flood vents. Dennis Machado testified that he purchased the house in 2009 and the adjacent lot in 2011; that he and his wife have three children.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio, front yard, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant owns the lot to the south of this lot and closest to the proposed addition. Similar additions have been constructed in the area.
2. The requested floor area ratio, front yard, 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 applicant owns the lot to the south of this lot and closest to the proposed addition. 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 variances.
4. The requested floor area ratio, front yard, 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 applicant owns the lot to the south of this lot and closest to the proposed addition. 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.

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

General Conditions:

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

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

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

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

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

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

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

DATED: April 5, 2017

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
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DECISION

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

To: Kevin Brauer  
69 Meadows Street  
Pearl River, New York 10965

ZBA #17-26  
Date: April 5, 2017  
Permit # 46152

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-26: Application of Kevin Brauer for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .23 proposed), 5 ( Lot Area: 15,000 sq. ft. required, 10,455 sq. ft. existing), 6 ( Lot Width: 100' required, 96.69' existing) , 8 ( Front Yard: 30' required, 29.8' existing, 21.8' & 22.1' proposed), 9 (Side Yard: 20' required, 18' existing & proposed), 10 (Total Side Yard: 50' required, 36' existing & proposed) and 11 (Rear Yard: 35' required, 25' existing) for an addition to an existing single-family residence. The premises are located at 69 Meadows Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 40; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 5, 2017 at which time the Board made the determination hereinafter set forth.

Kevin and Laura Brauer appeared and testified.

The following documents were presented:

1. Plot plan based on survey by Robert Jost, date unknown.
2. Architectural plans dated October 11, 2016 by Harold Goldstein, Registered Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

Kevin Brauer testified that they are proposing to add an additional 8' to the existing downstairs bedroom; and to a front porch that would meet the eight foot bump out of the bedroom and be twenty feet long; that the porch would be aesthetically pleasing and also provide a safe entrance into the house; that the house is a non-dormered cape and the front steps are often wet or icy in inclement weather; that they have two children and a dog; that this would allow the kids to have their own rooms; and they purchased the house in 2013.

Laura Brauer testified that other houses in the area have done similar additions; that there is one on the corner of Meadows and Pauline, and three houses down there are two more similar additions; and that the street has very little traffic.

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Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio, lot area, lot width, front yard, side yard, total side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and almost all of the requested variances are for pre-existing non-conforming conditions and similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, lot area, lot width, front yard, side yard, total side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is undersized and almost all of the requested variances are for pre-existing non-conforming conditions and 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 variances.
4. The requested floor area ratio, lot area, lot width, front yard, 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. The lot is undersized and almost all of the requested variances are for pre-existing non-conforming conditions and 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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, lot area, lot width, front yard, 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 floor area ratio, lot area, lot width, front yard, side yard, total side yard and rear yard variances was presented and moved by Ms. Salomon, seconded by Mr. Bosco and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ; Mr. Bosco, aye, and Ms. Salomon, aye. Ms. Castelli was absent.

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

DATED: April 5, 2017

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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DECISION

**FLOOR AREA RATIO, AND SECTION 3.11, R-80, COLUMN 2 #7 VARIANCES  
APPROVED AS MODIFIED**

To: Joseph Rooney  
4 Alexa Court  
Pearl River, New York 10965

ZBA #17-27  
Date: April 5, 2017  
Permit # 46176

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-27: Application of Joseph Rooney for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .32 existing), and from Section 3.11, refers to R-80 District Column 2 #7 (one additional dwelling unit clearly subordinate to the main one-family use to occupy not more than 600 sq. ft. of floor area; 1,403 sq. ft. exist; modified to: 12' x 16' bedroom, 11' x 16' kitchen, 12' 4" x 16' living room and 6' x 11' bathroom) for a single-family conversion as per (Zoning Code § 4.5 Local Law 7 of 1981) at an existing single-family residence. The premises are located at 4 Alexa Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 3, Lot 4.4; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 5, 2017 at which time the Board made the determination hereinafter set forth.

Joseph Rooney and George Alatsas appeared and testified.

The following documents were presented:

1. Architectural drawing of the ground floor of the house showing the existing apartment.
2. Survey of the lot dated April 3, 1998 by Edward T. Gannon, P.L.S..
3. A letter dated February 27, 2017 signed and sealed by Barbara Hess, Architect.
4. A letter dated February 15, 2017 signed and sealed by Barbara Hess, Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Ms. Castelli was absent.

Joseph Rooney testified that everything on the plan is existing; that he finished the basement for his parents in 1998; that he was young and dumb and didn't realize it was a violation to add the apartment; that he found out it was illegal when he put the house on the market to sell; that the code enforcement officer saw the real estate add and that's when he found out about being in violation; that the measurements that the Board have is for the entire basement and garage; that the apartment is only part of the basement; and he pointed out on the plan the living room, bedroom, kitchen and bathroom and those rooms constitute the apartment and there is a door that leads into the rest of the basement;

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that this door has a lock on the apartment side that his parents used when they wanted to have privacy; that they named the door after his daughter because she was the one always going through it to visit with her grandparents; that he wants to do the right thing; that he is downsizing to a smaller house in the same neighborhood; that he filed a covenant on February 14, 2017; and he will remove the door if he needs to, or do whatever Mike wants to make sure the apartment is only the 12' x 16' bedroom, 11 x 16 kitchen, 12' 4" x 16' living room and 6' x 11' bathroom.

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 Mr. Bosco and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio and Section 3.11, R-80 District, Column 2 #7 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The portion of the basement that is approved as the accessory apartment as per Zoning Code § 4.5 (Local Law #7 of 1981) is the 12' x 16' bedroom, 11' x 16' kitchen, 12' 4" x 16' living room and 6' x 11' bathroom and the apartment shall be closed off from the rest of the house in a manner satisfactory to the Building Inspector.
2. The requested floor area ratio and Section 3.11, R-80 District, Column 2 #7 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The portion of the basement that is approved as the accessory apartment as per Zoning Code § 4.5 (Local Law #7 of 1981) is the 12' x 16' bedroom, 11' x 16' kitchen, 12' 4" x 16' living room and 6' x 11' bathroom and the apartment shall be closed off from the rest of the house in a manner satisfactory to the Building Inspector.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and Section 3.11, R-80 District, Column 2 #7 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 portion of the basement that is approved as the accessory apartment as per Zoning Code § 4.5 (Local Law #7 of 1981) is the 12' x 16' bedroom, 11' x 16' kitchen, 12' 4" x 16' living room and 6' x 11' bathroom and the apartment shall be closed off from the rest of the house in a manner satisfactory to the Building Inspector.

5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and Section 3.11, R-80 District, Column 2 #7 variances (12' x 16' bedroom, 11' x 16' kitchen, 12' 4" x 16' living room and 6' x 11' bathroom) are APPROVED with the SPECIFIC CONDITION that the interior door of the accessory apartment that leads to the rest of the house shall be closed-off in a manner satisfactory to the Building Inspector so that the square footage of the accessory apartment shall be no greater than 647 sq. ft. or the total square footage of the bedroom, bathroom, kitchen and living room in the accessory apartment; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested floor area ratio and Section 3.11, R-80 District, Column 2 #7 variances (12' x 16' bedroom, 11' x 16' kitchen, 12' 4" x 16' living room and 6' x 11' bathroom) with the SPECIFIC CONDITION that the interior door of the accessory apartment that leads to the rest of the house shall be closed-off in a manner satisfactory to the Building Inspector so that the square footage of the accessory apartment shall be no greater than 647 sq. ft. or the total square footage of the bedroom, bathroom, kitchen and living room in the accessory apartment; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Bosco, aye; and Ms. Salomon, aye. Ms. Castelli was absent.

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

DATED: April 5, 2017

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE  
2017 APR 20 PM 1 40  
TOWN OF ORANGETOWN