

MINUTES
ZONING BOARD OF APPEALS
July 5, 2017



MEMBERS PRESENT: PATRICIA CASTELLI
JOAN SALOMON
MICHAEL BOSCO
LEONARD FEROLDI, ALTERNATE

ABSENT: DAN SULLIVAN
THOMAS QUINN

ALSO PRESENT: Denise Sullivan, 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 Ms, Castelli, Acting 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:

TOBIN 11 Sickletown Road Pearl River, NY 69.19 / 1 / 25.1; R-40 zone	GRAVEL DRIVEWAY VARIANCE APPROVED	ZBA#17-49
KABBARA 86 Key Place Tappan, NY 74.17 / 2 / 51; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#17-50
FERNANDEZ 320 Manor Boulevard Pearl River, NY 69.09 / 3 / 1; R-15 zone	FRONT YARD, SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#17-51
SMITH 96 Wilson Street Blauvelt, NY 69.15 / 2 / 4; R-15 zone	SECTION 4.52 AND 4.58 VARIANCES APPROVED WITH THE SPECIFIC CONDITION THAT THE APPLICANT FILE A COVENANT	ZBA#17-52
GRIFFIN 27 Sunrise Lane Pearl River, NY 69.18 / 3 / 43.1; R-15 zone	POSTPONED	ZBA#17-53
PENENO 131 West Washington Ave. Pearl River, N.Y. 68.15 / 4 / 31; RG zone	FLOOR AREA RATIO, BUILDING HEIGHT VARIANCES APPROVED	ZBA#17-54

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: Defiant Brewing Company, Conditional Use Permit and site plan review, 406 Dexter Plaza, Pearl River, , NY; 68.20 / 1 / 1./40; LI zone; Palisades Fire District Site Plan, 520 Route 340, Sparkill, N.Y.; 78.05/ 2 / 60 & 61;RG/R-15 zone; RRIS Corp Site Plan, 1 Route 340, Orangeburg, NY 74.11 / 2 / 26; CC zoning district; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

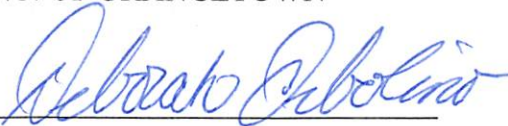
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:30 P.M.

Dated: July 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



DECISION

SECTION 6.332 GRAVEL DRIVEWAY VARIANCE APPROVED

To: Kathleen Tobin
11 Sickletown Road
Pearl River, New York 10964

ZBA #17-49
Date: July 5, 2017
Permit #46186

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-49: Application of Kathleen Tobin for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Section 6.332 (Driveways: 3 inches of binder mix with a top wearing course of 1 ½" of fine mix asphalt concrete required, gravel driveway existing) at an existing single-family residence. The premises are located at 11 Sickletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.19, Block 1, Lot 25.1; in the R-40 zoning district.

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

Robert D'loughy appeared and testified.

The following documents were presented:

1. As-Built Survey for #11 Sickletown Road dated April 17, 2017 signed and sealed by Stephen F. Hoppe, L.S..
2. Four 8 x 10 pictures of the proposed lot.

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

Robert D'loughy testified that the area has water issues; that there is a water course that runs through the lot; that Sokol next door has water issues also; that he has managed to divert the water over time with swales and pipes and roof drains that go directly into the pits; that they would like to keep the driveway gravel because it helps with the dissipation of the water.



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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 6.332 Gravel Driveway variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The gravel driveway is appropriate in this area because of the water issues that are known in the area.
2. The applicants driveway and the paver driveway apron as constructed satisfies the County Highway requirements and the pavers along Sickletown Road are set to grade as to not cause any obstruction or plow hazard.
3. The requested Section 6.332 Gravel Driveway variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The gravel driveway has a positive environmental effect, by absorbing the water instead of sheeting it away from the property.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested Section 6.332 Gravel Driveway 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.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Section 6.332 Gravel Driveway 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.

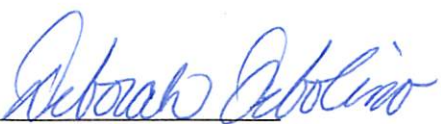


The foregoing resolution to approve the application for the requested Section 6.332 Gravel Driveway variance was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan and Mr. Quinn were 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: July 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-D.M.

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



DECISION

REAR YARD VARIANCES APPROVED

To: Jamal and Reem Kabbara
86 Key Place
Tappan, New York 10983

ZBA #17-50
Date: July 5, 2017
Permit # 46421

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 17-50:Application of Jamal and Reem Kabbara for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Rear Yard: 35' required, 19.66' proposed) for a deck at an existing single-family residence. The premises are located at 86 Key Place, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.17, Block 2, Lot 51; in the R-15 zoning district.

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

Jamal Kabbara appeared and testified.

The following documents were presented:

1. Site plan with deck drawn on it.
2. Deck plans 3 pages.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Feroldi, aye. Mr. Sullivan and Mr. Quinn were absent.

Jamal Kabbara testified that the property was developed in the early 60's; that the first owner sold to him in October 2006; that the original owner received a variance for the family room and deck in the early 80's; that the deck was 22 feet from the rear yard and he is rebuilding the existing deck because it needs to be rebuilt; that the staircase is going into the rear yard and is changing the rear yard setback to 19.66 feet.



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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing house is set back on the property and the rear yard is not deep. The original owner built an addition at the rear of the house in the 80's and this deck is just a replacement with new stairs going into the rear yard.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing house is set back on the property and the rear yard is not deep. The original owner built an addition at the rear of the house in the 80's and this deck is just a replacement with new stairs going into the rear yard.
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. The existing house is set back on the property and the rear yard is not deep. The original owner built an addition at the rear of the house in the 80's and this deck is just a replacement with new stairs going into the rear yard.
4. The requested rear yard variance is not substantial.
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 rear 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.




The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan and Mr. Quinn were 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: July 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



DECISION

FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Juan Fernandez
320 Manor Boulevard
Pearl River, New York 10965

ZBA #17-51
Date: July 5, 2017
Permit #46463

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-51: Application of Juan and Lillian Fernandez for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 8 (Front Yard: 30' required, 28' proposed), 9 (Side Yard: 20' required 14' proposed) and from 12 (Building Height: 14' permitted, 25' 3" proposed) for an addition to an existing single family residence. The premises are located at 320 Manor Boulevard, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 1; in the R-15 zoning district.

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

Juan Fernandez appeared and testified.

The following documents were presented:

1. Copy of Survey for Brunard Village Inc. not dated by Robert Jost, Surveyor.
2. Architectural plans dated May 4, 2017 with the latest revision date of June 6, 2017 by John F. Musinski Registered Architect.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Feroldi, aye. Mr. Sullivan and Mr. Quinn were absent.

Juan Fernandez testified that he would like to add a second story to the existing house; that the house is only 900 sq. ft.; that they presently have two bedrooms and two daughters; that they would add three bedrooms and two bathrooms upstairs and he has three letters from neighbors in support of the application and several pictures of other houses in the area that have done similar expansions at 310 Manor Boulevard, 99 Lombardi, two blocks away, at 50 Secor Boulevard and 78 Secor Boulevard; and that he has owned the house for twelve years.



Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard, 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 front yard and side yard are existing conditions; the only change is the requested height variance. The proposed addition is in keeping with the character of the neighborhood.
2. The requested 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 front yard and side yard are existing conditions; the only change is the requested height variance. The proposed addition is in keeping with the character of 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 building 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 front yard and side yard are existing conditions; the only change is the requested height variance. The proposed addition is in keeping with the character of the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard, front 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.




The foregoing resolution to approve the application for the requested front yard, side yard and building height variances was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan and Mr. Quinn were 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: July 5, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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



DECISION

SECTIONS 4.52 AND 4.58 VARIANCES APPROVED WITH COVENANT

To: Paul and Marina Smith
96 Wilson Street
Blauvelt, New York 10913

ZBA #17-52
Date: July 5, 2017
Permit # 46438

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-52: Application of Paul Smith for variances from Chapter 43, R-15 District, Section 3.11 Group M, refer to R-80, Column 2, #7 (subordinate dwelling unit clearly subordinate to the main one-family use to occupy no more than 600 sq. ft.: 623 sq. ft. proposed): 30 sq. ft. permitted, 254 sq. ft. proposed) and from Sections 4.52 (No significant exterior change and no new structures built on property within the past 10 years so as to create an additional dwelling unit) and 4.58 (The owner who first converts the dwelling subsequent to the effective date of this local law must have resided in said dwelling for at least 15 years). The premises are located at 96 Wilson Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.15, Block 2, Lot 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, July 5, 2017 at which time the Board made the determination hereinafter set forth.

Paul and Marina Smith appeared and testified.

The following documents were presented:

1. Architectural plans with site plan, dated October 30, 2016 by Robert Murphy, Registered Architect.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Mr. Sullivan and Mr. Quinn were absent.

Paul Smith testified that they have lived in the town for 18 years; that they purchased this house three years ago; that they want to bring his in-laws to live with them; that they would be adding a bedroom upstairs above the existing sunroom, which would be closed in as part of the house; that they are proposing to use the existing two bedrooms, sunroom and existing kitchen as part of the living space for their parents and extending out 14 feet for an additional kitchen and living area; that they will file a covenant; that they can reduce the apartment by 23 sq. ft. and reduce the variance request; and that there is a side entrance into the house.



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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Feroldi 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 Sections 4.52 and 4.58 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition does not require any area variances and the applicants' have been long time Orangetown residents, and are reducing the size of the subordinate dwelling unit to 600 sq. ft.; eliminating one of the requested variances.
2. The requested Sections 4.52 and 4.58 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed addition does not require any area variances and the applicants' have been long time Orangetown residents, and are reducing the size of the subordinate dwelling unit to 600 sq. ft.; eliminating one of the requested variances.
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 Sections 4.52 and 4.58 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 addition does not require any area variances and the applicants' have been long time Orangetown residents, and are reducing the size of the subordinate dwelling unit to 600 sq. ft.; eliminating one of the requested variances.
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 Sections 4.52 and 4.58 variances are APPROVED with the Specific Condition that “ The current deeded owners shall execute the Restrictive Covenant required by Orangetown Zoning Code §4.51, which §4.51 requires that the subject home be owner-occupied and that, if the owners cease to occupy the home, the home automatically reverts to only one dwelling unit; which Covenant shall be in form and substance satisfactory to the Town Attorney, and which shall be recorded in the County Clerk’s Office at the expense of the Applicant”; 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.

Smith
ZBA#17-52
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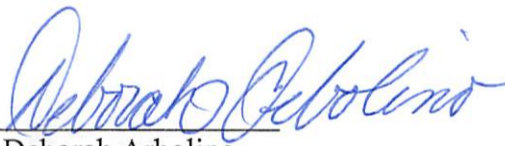
Permit#46438

The foregoing resolution to approve the application for the requested Sections 4.52 and 4.58 variances with the Specific Condition that “ The current deeded owners shall execute the Restrictive Covenant required by Orangetown Zoning Code §4.51, which §4.51 requires that the subject home be owner-occupied and that, if the owners cease to occupy the home, the home automatically reverts to only one dwelling unit; which Covenant shall be in form and substance satisfactory to the Town Attorney, and which shall be recorded in the County Clerk’s Office at the expense of the Applicant”; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan and Mr. Quinn were 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: July 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



DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED

To: Frank Peneno
131 West Washington Avenue
Pearl River, New York 10965

ZBA #17-54
Date: July 5, 2017
Permit # 46581

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-54: Application of Frank Peneno for variances from Chapter 43, RG District, Section 3.12 Group Q, Columns 4 (Floor Area Ratio: .30 permitted, .426 proposed), and 12 (Building Height: 13.33' permitted, 17' proposed) for a roof over an existing deck at an existing single-family residence. The Premises are located at 131 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 4, Lot 31 in the RG zoning district.

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

Frank Peneno appeared and testified.

The following documents were presented:

1. Site plan for Mr. and Mrs. Peneno dated April 26, 1999 and roofed over deck plan.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Feroldi, aye. Mr. Sullivan and Mr. Quinn were absent.

Frank Peneno testified that the existing deck is in full sun and he would like to build a roof over it because he is getting older and the sun bothers him; that the deck is existing and the only new construction would be for the roof.



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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and the deck already exists. The roof structure over the deck will not change the character of the neighborhood.
2. The requested floor area ratio and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The lot is undersized and the deck already exists. The roof structure over the deck will not change the character of 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 and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. . The lot is undersized and the deck already exists. The roof structure over the deck will not change the character of the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio 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.



Peneno
ZBA#17-54
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Permit #46581

The foregoing resolution to approve the application for the requested floor area ratio and building height variances was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan and Mr. Quinn were 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: July 5, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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