

MINUTES
ZONING BOARD OF APPEALS
January 18, 2017

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

ABSENT: MICHAEL BOSCO

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:

MACY BARN 690 Western Highway Blauvelt, NY 70.05 / 1 / 11; R-80 zone	CONTINUED	ZBA#17-06
PFIZER 401 North Middletown Road Pearl River, NY 68.08 / 1 / 5; LI zone	FRONT YARD AND SIDE YARD VARIANCES APPROVED	ZBA#17-07
CORLETT 117 Hillside Avenue Pearl River, NY 68.15 / 5 / 74; RG zone	FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#17-08
EISENBERG 11 Kopac Lane Palisades, NY 78.13 / 1 / 3.11; R-40 zone	SECTION 5.153 SPA DISTANCE FROM HOUSE APPROVED	ZBA#17-09
MESAGNO 49 Campbell Avenue Tappan, NY 77.11 / 2 / 78; R-15 zone	SECTION 5.227 REAR YARD FOR POOL APPROVED	ZBA#17-10

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

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: 62-76 Route 303, LLC Site Plan, (Nicks Convenience store) Tappan, NY; 77.15 / 1 / 42; CS zone; Xing Minor Subdivision Plan,(2 lots) 676 Oak Tree Road, Palisades, N.Y.; 78.17/ 2/ 16; R-40 zone; Sami Construction Minor Subdivision Plan (2 lots), 70 Hickory Hill Road, Tappan, N.Y.; 77.09 / 1 / 25; 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 9:30 P.M.

Dated: January 18, 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 CLERKS OFFICE
2017 FEB 2 PM 2 05
TOWN OF ORANGETOWN

DECISION

FRONT YARD AND SIDE YARD VARIANCES APPROVED

To: Donn McMullin (Pfizer)
401 North Middletown Road
Building 200/room 2010
Pearl River, New York 10965

ZBA #17-07
Date: January 18, 2017
Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 17-07: Application of Pfizer Emergency generator for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Group QQ, Section 3.12, Columns 8 (Front Yard: 50' required, 48' 2" proposed), and 9 (Side Yard: 50' required, 22' 3" proposed) for the proposed generator as a standby generator for Building 222. The premises are located at 401 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 5; LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 18, 2017 at which time the Board made the determination hereinafter set forth.

Donn McMullin and J. Michael Petry, Engineer, appeared and testified.

The following documents were presented:

1. Plans labeled " Building 222 Stand-By generator System" dated 09/14/2016 signed and sealed by J. Michael Petry, P.E., 5 pages.
2. Structural Construction Plans for Building 222 Stand-By Generator System dated 05/26/2016 signed and sealed by Christopher Joseph Daly , P.E. 2 pages.
3. A memorandum dated November 9, 2016 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
4. A letter dated January 9, 2017 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application seeks area or bulk variances for construction or expansion of primary, or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application 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; and Mr. Sullivan, aye. Ms. Salomon and Mr. Bosco were absent.

Donn McMullin testified that they are back to get side and front yard variances for the generator that just received performance standards approval; that they did not show the measurement for the generator on the previous plan and when they did submit plans with the measurements, it was discovered that they need these variances because they subdivided the property.

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Michael Petry, Engineer, testified that the generator was placed in the proposed location because it minimizes the conduit run; that it is shown on the civil sheets C-3; that it will be on the southerly side of the building and all of the existing trees can remain; that in order to install the generator without a variance it would interfere with the existing loading dock, rendering it useless and it would have to be located in the parking lot; that at the proposed location it will not be seen from the highway.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed generator is being located in such a way as to minimize the conduit run and to minimize its view from the easterly highway.
2. The requested front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed generator is being located in such a way as to minimize the conduit run and to minimize its view from the easterly highway.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The proposed generator is being located in such a way as to minimize the conduit run and to minimize its view from the easterly highway.
4. The requested front yard and side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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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TOWN ENGINEER'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 and side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE
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The foregoing resolution to approve the application for the requested front yard and side yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Bosco 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: January 18, 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-G.M.

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

TOWN CLERKS OFFICE
2017 FEB 2 PM 2 05
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Susan Corlett
117 Hillside Avenue
Pearl River, New York 10965

ZBA #17-08
Date: January 18, 2017
Permit # 45633

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-08: Application of James and Susan Corlett for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Columns 4 (Floor Area Ratio: .30 permitted, .358 proposed), 8 (Front Yard: 25' required, 6' and 14.1' proposed) and 12 (Building Height: 8' permitted from the northeast property line, 24' proposed) for an addition to an existing single-family residence. The property is located at 117 Hillside Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 5, Lot 74; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 18, 2017 at which time the Board made the determination hereinafter set forth.

James and Susan Corlett appeared and testified.

The following documents were presented:

1. Architectural plans dated August 3, 2016 by Harry Goldstein, Registered Architect (3 pages).
2. Four letters from neighbors in support of the application.

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

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

Susan Corlett testified that they purchased the house from her parents ten years ago; that the house is not large enough for the family; that they put it on the market and they got quite a bit of foot traffic but no offers to purchase because everyone said that the rooms were too small; that the house sits on a corner lot with two front yards; that they are proposing to go up and have three bedrooms all on the same level; that the front yard variances exist and are not changing; that they are increasing the height and the floor area ratio; and that they have letters from their neighbors in support of the application.

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James Corlett testified that the existing second bedroom on the first floor is 8' x 10'; that there are other houses on the area that have done similar expansions; that they are adding a garage and that there is a house five houses away that did a similar addition and two houses diagonally that did additions.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard 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 setbacks are existing and are not changing; and similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, front 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 setbacks are existing and are not changing; 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. The front yard setbacks are existing and are not changing; and similar additions have been constructed in the neighborhood.
4. The requested floor area ratio, front 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.
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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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 floor area ratio, 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.

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, front yard and building height variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Bosco 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: January 18, 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
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TOWN OF ORANGETOWN

DECISION

SECTION 5.153 VARIANCE FOR 5 ½ ' DISTANCE BETWEEN THE SPA AND THE HOUSE IS APPROVED

To: Glen Eisenberg
11 Kopac Lane
Palisades, New York 10964

ZBA #17-09
Date: January 18, 2017
Permit # 45853

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-09: Application of Glen Eisenberg for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 5.153(In-ground pool shall not be located closer than 8' to principal building and 5 ½' is proposed) to add a spa to an existing in-ground pool at an existing single-family residence. The premises are located at 11 Kopac Lane, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.13, Block 1, Lot 3.11; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 18, 2017 at which time the Board made the determination hereinafter set forth.

Glen Eisenberg and Karen Arent, Landscape Architect, appeared and testified.

The following documents were presented:

1. Site plan dated November 29, 2016 based on an as-built survey by Jay Greenwell PLS dated July 29, 2016, signed and sealed by Karen A. Arent, Landscape Architect.
2. Four 8" x 10" pictures of the rear of the house and the existing structures.

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

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

Glen Eisenberg stated that they had originally planned to have a spa at the front of the pool but when they were doing the pool it was too expensive to add the spa; that they thought they had left enough room to install the spa at a distance of eight feet from the house but they found out that they have less than the eight feet; that they have 5 ½ feet to the proposed water's edge of the spa.

Karen Arent, Landscape Architect, stated that the spa will be built of the same materials as the pool; that there is 5 ½ feet to the water's edge of the spa and the stairs to the house.

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TOWN CLERK OFFICE

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 Section 5.153 variance for 5 ½' distance from the spa to the house will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed spa is 5 ½ feet from the back stairs to the house and 17 feet from the house.
2. The requested Section 5.153 variance for 5 ½' distance from the spa to the house will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed spa is 5 ½ feet from the back stairs to the house and 17 feet from the house.
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 Section 5.153 variance for 5 ½' distance from the spa to the house 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 proposed spa is 5 ½ feet from the back stairs to the house and 17 feet from the house.
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
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TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Section 5.153 variance for 5 ½' distance from the spa to the house 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 CLERKS OFFICE
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The foregoing resolution to approve the application for the requested Section 5.153 variance for 5 ½' distance between the spa and the house was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Bosco 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: January 18, 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 FEB 2 PM 2 06
TOWN OF ORANGETOWN

DECISION

SECTION 5.227 REAR YARD VARIANCE APPROVED

To: John F. Mesagno
49 Campbell Avenue
Tappan, New York 10983

ZBA #17-10
Date: January 18, 2017
Permit # 45891

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-10: Application of John Mesagno for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.227 (Rear yard setback for a pool: 20' required, 15' proposed) to install an in-ground pool at an existing single-family residence. The premises are located at 49 Campbell Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 78; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 18, 2017 at which time the Board made the determination hereinafter set forth.

John Mesagno and Robert Ball, Westrock Pool, appeared and testified.

The following documents were presented:

1. Survey dated April 25, 1986 by William Yuda with the pool drawn on it.
2. One letter from a neighbor in support of the application.

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

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

Robert Ball, Westrock Pool, testified that the rear and side yard of the property is completely fenced; that they are installing a variable speed motor for the filter which is very quiet; that there is no other place to install the pool because the house was recently renovated and a new expensive treks deck was installed; that in order to meet the required rear yard setback a large portion of the deck would need to be removed; that doing that would render the deck useless and be extremely expensive.

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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 Section 5.227 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar variances have been granted in the area for pools.
2. The requested Section 5.227 rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar variances have been granted in the area for pools.
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. Similar variances have been granted in the area for pools.
4. The requested section 5.227 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.

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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 Section 5.227 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.

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The foregoing resolution to approve the application for the requested Section 5.227 rear yard variance was presented and moved by Mr. Feroldi, seconded by Mr. Quinn and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Bosco 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: January 18, 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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