

MINUTES  
ZONING BOARD OF APPEALS  
March 8, 2018

MEMBERS PRESENT:      PATRICIA CASTELLI, Acting Chair  
                                 THOMAS QUINN  
                                 LEONARD FEROLDI, ALTERNATE

ABSENT:                    DAN SULLIVAN  
                                 JOAN SALOMON  
                                 MICHAEL BOSCO

ALSO PRESENT:           Ann Marie Ambrose,            Official Stenographer  
                                 Deborah Arbolino,                Administrative Assistant

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEMS:

GARCIA 128 Sunset Road Blauvelt, NY 70.09 / 1 / 2; R-40 zone	<b>POSTPONED TO APRIL 4, 2018</b>	ZBA#18-12
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O'BRIEN/MOSCOWITZ 75 Sunset Road Blauvelt, NY 70.09 / 2 / 17; R-15 zone	<b>POSTPONED TO APRIL 4, 2018</b>	ZBA#17-11
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NEW ITEMS:

SAVRIDES 200 North Main Street Pearl River, NY 68.12 / 6 / 48; RG zone	ACCESSORY STRUCTURE DISTANCE AND SIDE YARD VARIANCE APPROVED	ZBA#18-15
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DONNELLY 25 Azaela Drive Nanuet, NY 64.18 / 2 / 69; R-22 zone	CONTINUED	ZBA#18-16
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KIRSCH 49 Kings Highway Tappan, NY 77.11 / 1 / 74; R-15 zone	CONTINUED	ZBA#18-17
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TOWN OF COMPTON  
2018 MAR 14 P 12:28  
TOWN CLERK'S OFFICE

ST. AGNES RESIDENCE	REAR YARD VARIANCE	ZBA#18-18
EMERGENCY GENERATOR	AND PERFORMANCE STANDARDS	
PERFORMANCE STANDARDS	APPROVED	

175 Route 340  
 Sparkill, NY  
 74.16 / 1 / 2.1; R-22 zone

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: 155 Corporate Drive Building Expansion and Parking Lot Addition Site Plan Amendment to Final Site Plan approval , 155 Corporate Drive, Orangeburg, NY; 73.19 / 1 / 1; LIO zone; 140 Oak Tree Road-Roof Top Wireless Telecommunication Facility Site Plan and Special Permit, 140 Oak Tree Road, Tappan, NY; 77.15 / 2 / 47; 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.

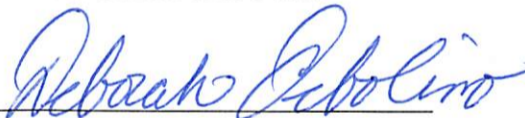
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 9:00 P.M.

Dated: March 8, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN CLERK'S OFFICE  
 2018 MAR 14 P 12:28  
 TOWN OF ORANGETOWN

DECISION

**§5.227 ACCESSORY STRUCTURE SET BACK FROM PROPERTY LINE; AND § 5.153 ACCESSORY STRUCTURE SETBACK BETWEEN STRUCTURES, VARIANCES APPROVED**

To: Irene Savrides  
200 North Main Street  
Pearl River, New York 10965

ZBA #18-15  
Date: March 8, 2018  
Permit # 46805

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-15: Application of Irene Savrides for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 5.227 (Accessory structure set back: 5' required, 16" proposed: **changed to 2'**) and from Section 5.153 (Accessory Structure Distance between buildings: 15' required, 7' 6" proposed) for a shed at an existing single-family residence. The property is located at 200 North Main Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.12, Block 6, Lot 48; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Thursday, March 8, 2018 at which time the Board made the determination hereinafter set forth.

Irene and Nick Savrides appeared and testified.

The following documents were presented:

1. Survey dated 11/15/1976 with the last revision date of 12/07/1976 not signed or sealed by William Youngblood Associates.
2. Three pages of hand drawn plans for the shed.

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

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 Mr. Quinn and carried as follows: Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco, Ms. Salomon, and Mr. Sullivan, were absent.

Nick Savrides testified that ten years ago he put in a shed that was 8' x 10' and he did not need a permit because it was under 100 sq. ft.; that he needs a larger shed for his tools and wants to keep it in the same location because it looks really nice where it is; that it is 8' from the house and 25' to the neighbor; and it is 2' from the property line; that the fence is set in one foot off the property line and the shed is not 16" from the property line, it is 2' from the property line.

Irene Savrides testified that they have lived in the house since 1976.

Public Comment:  
No public comment.

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TOWN CLERK'S OFFICE

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

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

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 §5.227 accessory structure property line setback (2') and § 5.153 accessory structure separation distance between buildings variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The abutting property owners' driveway abuts the portion of the property where the shed is placed and it does not interfere with the use of their property.
2. The requested §5.227 accessory structure property line setback (2') and § 5.153 accessory structure separation distance between buildings variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The abutting property owner's driveway abuts the portion of the property where the shed is placed and it does not interfere with the use of their property.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested §5.227 accessory structure property line setback (2') and § 5.153 accessory structure separation distance between buildings 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 abutting property owner's driveway abuts the portion of the property where the shed is placed and it does not interfere with the use of their property.
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 ENGINEER'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested §5.227 accessory structure property line setback of 2'; and § 5.153 accessory structure separation distance between building 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.

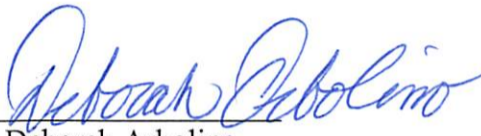
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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested §5.227 accessory structure property line setback (2'); and § 5.153 accessory structure separation distance between building, variances are APPROVED; was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco, Ms. Salomon and Mr. Sullivan 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: March 8, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2018 MAR 14 P 12:28  
TOWN OF ORANGETOWN

DECISION  
**REAR YARD SETBACK VARIANCE APPROVED**  
**CONFORMANCE TO PERFORMANCE STANDARDS APPROVED**

To: Thomas McMenamain (St. Agnes Generator)  
175 Route 340  
Sparkill, New York 10976

ZBA #18- 17  
Date: March 8, 2018  
Permit # 47223

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-17: Application of St. Agnes Residence requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code ( Orangetown Code Chapter 43) Section 4.1 Performance Standards: review of an emergency generator and from Section 3.12, Group E, R-40 District Column 11 (Rear Yard: 50' required, 28.75' proposed). The premises are located at Dominican Convent, 175 Route 340, Sparkill, New York and are identified on the Orangetown Tax Map as Section 74.16, Block 1, Lot 2.1; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 7 , 2018 at which time the Board made the determination hereinafter set forth.

Thomas McMenamain, P.E., and Sister Margaret Saich appeared and testified.

The following documents were presented:

1. Location plan, site plan, zoning analysis, construction and fire access labeled "Saint Agnes Hall Dominican Convent of our Lady of the Rosary" dated December 19, 2002 with the latest revision date of February 6, 2018 signed and sealed by Judith A. Lawler, RA..
2. A plan labeled "Amendment to Site Plan-Proposed Emergency Generator" dated 12/29/2017 signed and sealed by Thomas "D. McMenamain, P.E. ( 13 pages).
3. Use Subject to Performance Standards Resume of Operations and Equipment dated February 8, 2018.
4. Fire Prevention Supplement.
5. A letter dated February 23, 2018 from Joseph J. Moran, P.E., Department of Environmental Management and Engineering, Town of Orangetown.
6. A memorandum dated February 26, 2018 from the Town of Orangetown Bureau of Fire Prevention from Michael B. Bettmann, Chief Fire Inspector.
7. A letter dated February 16, 2018 from the County of Rockland Highway Department signed by Dyan Rajasingham, Engineer III.
8. A letter dated March 1, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
9. Submitted at Zoning Board meeting by Thomas McMenamain, P.E.,(a) high resolution photo of generator, (b) Certification of Quality; (c) Sound emission data for SD 130 7.7L Diesel Engine Generator; (d) Sound attenuation calculations at convent property line and at face of building; (e) Sample Noise Level Tables; (f) Statement of exhaust emission for SD 130 diesel generator; and (f) MSDS for Low Sulfur #2 diesel fuel.

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

Ms. Castelli moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Feroldi , aye. Mr. Bosco, Ms. Salomon, and Mr. Sullivan were absent.

Thomas McMenamin, P.E., testified that the emergency generator is needed because the existing generator is not large enough to run the elevator; that the new larger generator will service 90% of the building and will be able to run the hydraulic elevator; that it will not impinge on the fire access road; and it will be exercised once a week.

Sister Margaret Saich testified that there are 28 to 30 sisters in the building and all of them are over 90 years old; and that the only part of the house not powered during an emergency is the Chapel.

Public Comment:

No Public comment.

The Board reviewed the Performance Standards and Fire Supplement forms.

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. Quinn and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated February 23, 2018 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated February 26, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated March 1, 2018 from Douglas Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

**DECISION:** In view of the foregoing and the testimony and documents submitted, the Board **RESOLVED** that the Application for a rear yard setback variance and Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the following **SPECIFIC CONDITIONS**: (1) the report dated February 23, 2018 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (2) the report dated February 26, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated March 1, 2018 by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; shall be complied with; **AND FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.



General Conditions:

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

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

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

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

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


TOWN OF ORANGETOWN  
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ZONING DEPARTMENT

The foregoing Resolution, to approve the application for the rear yard setback variance and requested conformance to Performance Standards with the following conditions: (1) the report dated February 23, 2018 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (2) the report dated February 26, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and (3) the report dated March 1, 2018 from Douglas J. Schuetz, acting Commissioner of Planning, Rockland County Department of Planning; shall be complied with; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan, Mr. Bosco and Ms. Salomon 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: March 8, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2018 MAR 14 P 12:28  
TOWN OF ORANGETOWN