

MINUTES
ZONING BOARD OF APPEALS
September 18, 2017

MEMBERS PRESENT: PATRICIA CASTELLI, ACTING CHAIR
THOMAS QUINN
JOAN SALOMON
MICHAEL BOSCO
LEONARD FEROLDI, ALTERNATE

ABSENT: DAN SULLIVAN

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 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

NEW ITEMS:

POSTPONED ITEM:

GRIFFIN
27 Sunrise Lane
Pearl River, NY
69.18 / 3 / 43.1; R-15 zone

FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED ZBA#17-53

NEW ITEMS:

WATERS
30 Dutchess Drive
Orangeburg, NY
74.13 / 1 / 15; R-22 zone

FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED ZBA#17-64

U.S. INFORMATION SYSTEMS
25 Ramland Road
Orangeburg, NY
73.20 / 1 / 26; LIO zone

DECISION DEFERRED ZBA#17-65

6 RYERSON PLACE
6 Ryerson Place
Tappan, NY
77.14 / 1 / 9; R-15 zone

UNDERSIZED LOT STATUS APPROVED, FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED ZBA#17-66

8 RYERSON PLACE
8 Ryerson Place
Tappan, NY
77.14 / 1 / 8; R-15 zone

UNDERSIZED LOT STATUS APPROVED, FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED ZBA#17-67

10 RYERSON PLACE
10 Ryerson Place
Tappan, NY
77.14 / 1 / 7; R-15 zone

UNDERSIZED LOT STATUS APPROVED, FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED ZBA#17-68

WADE
31 Azalea Drive
Nanuet, NY
69.06 / 2 / 43 ; R-22 zone

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED ZBA#17-69

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:07

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 11:10 P.M.

Dated: September 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 OF ORANGETOWN
2017 OCT 11 P 1: 07
TOWN CLERK'S OFFICE

DECISION

FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Steve Griffin
313 Roundhouse Road
Piermont, New York 10968

ZBA #17-53
Date: September 18, 2017
Permit # 46504

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-53: Application of Steve Griffin for variances from Chapter 43, R-15 District, Section 3.12 Group M, Columns 8 (Front Yard: 30' required, 18' proposed), 10 (Total Side Yard: 50' required, 46.7' proposed) for an addition to an existing single-family residence. The Premises are located at 27 Sunrise Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 43.1 in the R-15 zoning district.

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

Steve Griffin and Lino Sciarretta, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans dated January 1, 2017 by Robert Hoene, Registered Architect.
2. Site plan dated May 23, 2017 signed and sealed by Robert E. Sorace, P.L.S..

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

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

Lino Sciarretta, Attorney, testified that the proposal before the Board for an addition to the single family residence of a garage, front porch, and two bedrooms and a bathroom; that this lot was part of the Kreiger Subdivision and just received approval and neg dec for Seqra; that the lot is oddly shaped and the house is caddie corner on the lot; that the proposed addition is in keeping with the character of the neighborhood; that 35 Sunrise and the house across the street both have similar front porches and there is another house up the street with a similar addition of the garage and porch; and the proposed deck in the rear of the house is in compliance with the zoning requirements.

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:07
TOWN OF ORANGETOWN

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 front yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is oddly shaped, and similar additions have been constructed in the area.
2. The requested front yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is oddly shaped and similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard and total 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. The lot is oddly shaped and similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:07
TOWN OF ORANGETOWN

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

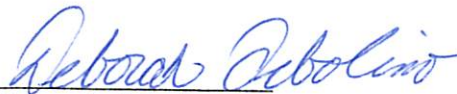
TOWN CLERK'S OFFICE
2017 OCT 11 P 1:07
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard and total side yard variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Mr. Sullivan 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: September 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 OF ORANGETOWN
2017 OCT 11 P 1:07
TOWN CLERK'S OFFICE

DECISION

**FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Christopher Waters
30 Dutchess Drive
Orangeburg, New York 10964

ZBA #17-64
Date: September 18, 2017
Permit # 46476

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-64: Application of Christopher Waters for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Columns 8 (Front Yard: 40' required, 31.25' proposed), 9 (Side Yard: 25' required, 24.38' and 24.75' proposed), 10 (Total Side Yard: 60' required, 49.13' proposed) and 12 (Building Height: 18.25' permitted, 28.25' proposed) for an addition to an existing single family residence. The premises are located at 30 Dutchess Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 1, Lot 15; in the R-22 zoning district.

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

Christopher and Cynthia Waters appeared and testified.

The following documents were presented:

1. Architectural plans dated March 27, 2017 by Bertram Cooper, Registered Architect.

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

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

Christopher Waters testified that they just had their third child and need a little more space; that he grew up in the house and purchased it from his parents five years ago; that his wife's parents live in New Jersey off exit 63 and when they come up to visit, they stay with them; that with the third child coming, the guest bedroom is gone; that they are proposing to add a master bedroom, move the existing laundry room upstairs and convert the laundry room and some addition space downstairs into a guest bedroom and add a front porch to the house; that the proposed front porch will line up with the existing steps; that other houses in the area have been renovated and have similar additions.

TOWN OF ORANGETOWN
2017 OCT 11 P 1:07
TOWN CLERK'S 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.

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 front yard, side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested front yard, side yard, total 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. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard, side yard, total side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2017 OCT 11 P 1:07
TOWN CLERK'S OFFICE

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

General Conditions:

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

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

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

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

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


TOWN CLERK'S OFFICE
2017 OCT 11 P 1:07
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard, side yard, total side yard and building height variances was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan 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: September 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 CLERK'S OFFICE
2017 OCT 11 P 1:07
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO (.242) AND BUILDING HEIGHT (27.5' PROPOSED. AND 20' MAXIMUM ALLOWED) VARIANCES APPROVED; AND LOT AREA, LOT WIDTH, SIDE YARD AND TOTAL SIDE YARD VARIANCES DETERMINED /INTERPRETED BY BOARD TO NOT BE REQUIRED

To: William Brodsky (6 Ryerson Place)
350 Boxberger Road
Valley Cottage, New York 10989

ZBA #17-66
Date: September 18, 2017
Permit # 46669

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-66: Application of 6 Ryerson Place for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .242 proposed), 5 (Lot Area: 15,000 sq. ft. required, 11,400 sq. ft. existing), 6 (Lot Width: 100' required, 75' existing), 9 (Side Yard: 20' required, 15.5' proposed), 10 (Total Side Yard: 50' required, 31.8' proposed) and 12 (Building Height: 15.5' permitted, 27.5' proposed) for a new single-family residence. The property is located at 6 Ryerson Place, Tappan New York and are identified on the Orangetown Tax Map as Section 77.14 Block 1 Lot 9; R-15 zone.

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

William Brodsky appeared and testified.

The following documents were presented:

1. Plot Plan dated 06/29/2017 for "6 Ryerson Place" signed and sealed by Paul Gdanski, P.E., and Jay A. Greenwell, L.S.
2. Architectural plans dated June 13, 2017 by Barry Terach, Registered Architect not signed or sealed.
3. A letter dated September 14, 2017 from the Rockland County Department of Planning signed by Douglas A.J. Schuetz, Acting Commissioner of Planning.
4. A letter dated August 29, 2017 from the Rockland County Highway Department signed by Joseph Arena, Senior Engineering Technician.
5. A letter dated Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated August 22, 2017 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

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

William Brodsky testified that he is before the Board for two reasons; that he needs the wisdom of the Board because he does not believe that he needs all of the variances that the building department is saying he needs; that he has three applications tonight for lots that were existing in 1962; that this should qualify for review as undersized lot just because they existed in 1962; that they should also qualify because they meet two of the three criteria for section 5.21, lot area and lot width; that the building height should also be denied under Section 5.21 e for 20' permitted; that the other item that the building department has decided in error is how it calculates the 6 6 6

height for lot; that according to the code, building height should be calculated from the front yard designation to the street line; that Mr. Kaiser wrote John Giardiello a letter regarding this and John Giardiello changed how it is measured sometime after; that he has met with John Edwards and Dennis Michaels regarding this subject and they agree with him; and he would appreciate clear direction from the Board because he will be returning with other undersized lots.

At this time the Board requested an Attorney/client privileged session to ask some legal questions, and left the room.

The Board returned and Dennis Michaels stated that he and John Edwards discussed this and came to the conclusion that the applicant is entitled to enjoy the loosening of bulk regulations because the lots existed prior to 1965 and they meet at least one criteria of three criteria for a substandard lot; and that the applicant is entitled to a maximum height of 20' under Section 5.21 e; and the Board agreed that the law should be interpreted this way.

After that the Board went over the variances that were originally part of the referral and removed the side yard and total side yard requests and recognized the substandard existing conditions for lot area and lot width.

Public Comment:

Christopher Tierney, 12 Ryerson Place, testified that he is adjacent to lot #10; that he is very concerned about water runoff; that there are significant wetlands on these lots; that the lots have sat vacant for the last twenty years and have full growth on them and the neighborhood still has water problems; that the water table here is high; that these houses are large for the lots and that he would request that the Board ensure that the plans are reviewed for drainage; that he does not want to have water in his back yard; and would feel some assurance if a drainage plan was submitted and approved by the Town Engineer.

David Hinricksen, 14 Ryerson Place, testified that he abuts 12 and 10 Ryerson; that he is very concerned about water and how the properties will be graded; that he will be the lowest property on that side of the cul de sac; and that he would like the Town Engineer to review a drainage plan that would protect the existing home owners during after the construction.

Steve Mattera, 18 Ryerson Place, testified that water is a major concern; that the Brook is in his backyard; and that he would like to know who would be responsible if his house is damaged because of this construction.

John Stuercke, 4 Ryerson Place, testified that he spoke to Mr. Brodsky earlier and was told about a plan to angle the backyard and put a drain in for drainage but he is concerned about maintaining a drainage pipe once Mr. Brodsky sells the houses and he would feel better if a drainage plan was submitted and approved by the Town engineer.

Cheryl Mattera, 18 Ryerson Place, questioned the board about who would be liable if these houses are built and they cause problems for the existing home owners.

Dennis Michaels stated that the Board cannot decide liability.

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:07
TOWN OF ORANGETOWN

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:

- (A) Pursuant to § 5.21 of the Orangetown Zoning Code (Chapter 43 of the Orangetown Code), since the subject property was either owned individually and separately, and separated from any adjoining tracts of land, on July 29, 1965, and which has not subsequently become attached to other adjoining land in the same ownership, and/or has a total area, lot with **OR** lot frontage less than the minimum required in the Bulk Table, then the subject property benefits from the relaxed, less restrictive, bulk requirements of Zoning Code § 5.21 (c) and (e); and, therefore, this Application only requires area/bulk variances for Floor Area Ratio and Building Height, which maximum Building Height is 20' as per § 5.21(e).
- (B) the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:
1. The requested floor area ratio, and Section 5.21 e (27.5' proposed, and 20' permitted) building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar houses have been constructed in the neighborhood.
 2. The requested floor area ratio, and Section 5.21 e (27.5' proposed, and 20' permitted) building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar houses 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 than by obtaining variances.
 4. The requested Floor Area ratio and Building Height (27.5') variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar houses have been constructed in the neighborhood.
 5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.
 6. The approval shall be conditioned upon the site development plan being reviewed by the Town's drainage consultant Engineer, and his finding that there will be a zero net increase in surface water runoff, and that the drainage plan is otherwise acceptable, the costs of which consultant shall be paid for by the applicant, including the remittance to OBZPAE of an escrow deposit.

DECISION: In view of the foregoing and the testimony and documents presented, the Board:
RESOLVED as follows:

- (A) Pursuant to § 5.21 of the Orangetown Zoning Code (Chapter 43 of the Orangetown Code), since the subject property was either owned individually and separately, and separated from any adjoining tracts of land, on July 29, 1965, and which has not subsequently become attached to other adjoining land in the same ownership, and/or has a total area, lot with **OR** lot frontage less than the minimum required in the Bulk Table, then the subject property benefits from the relaxed, less restrictive, bulk requirements of Zoning Code § 5.21 (c0 and e); and, therefore, this Application only requires area/bulk variances for Floor Area Ratio and Building Height, which maximum Building Height is 20' as per § 5.21(e).
- (B) The application for the requested Floor Area Ratio and Building Height (27.5' proposed, and 20' maximum permitted), variances are APPROVED.

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:

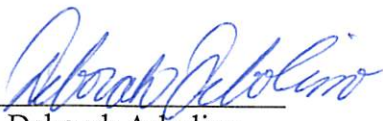
- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit 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 Floor Area Ratio, and Building Height (27.5' PROPOSED, 20' maximum permitted), variances; and to determine/ interpret that the lot area, lot width side yard and total side yard variances are not required, with the Specific Condition that: the approval shall be conditioned upon the site development plan being reviewed by the Town's drainage consultant Engineer, and his finding that there will be a zero net increase in surface water runoff, and that the drainage plan is otherwise acceptable, the costs of which consultant shall be paid for by the applicant, including the remittance to OBZPAE of an escrow deposit; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Mr. Sullivan 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: September 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-D.M.

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

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:08
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO (.271) AND BUILDING HEIGHT (27.5' PROPOSED. AND 20' MAXIMUM ALLOWED) VARIANCES APPROVED; AND LOT AREA, LOT WIDTH, SIDE YARD AND TOTAL SIDE YARD VARIANCES DETERMINED /INTERPRETED BY BOARD TO NOT BE REQUIRED

To: William Brodsky (8 Ryerson Place)
350 Boxberger Road
Valley Cottage, New York 10989

ZBA #17-67
Date: September 18, 2017
Permit # 46668

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-67: Application of 8 Ryerson Place for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .271 proposed), 5 (Lot Area: 15,000 sq. ft. required, 10,157 sq. ft. existing), 6 (Lot Width: 100' required, 75' existing), 9 (Side Yard: 20' required, 15.5' proposed), 10 (Total Side Yard:50' required, 31.8' proposed) and 12 (Building Height: 15.5' permitted, 27.5' proposed) for a new single-family residence. The property is located at 8 Ryerson Place, Tappan New York and are identified on the Orangetown Tax Map as Section 77.14 Block 1 Lot 8; R-15 zone.

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

William Brodsky appeared and testified.

The following documents were presented:

1. Plot Plan dated 06/29/2017 for "6 Ryerson Place" signed and sealed by Paul Gdanski, P.E., and Jay A. Greenwell, L.S.
2. Architectural plans dated June 13, 2017 by Barry Terach, Registered Architect not signed or sealed.
3. A letter dated September 14, 2017 from the Rockland County Department of Planning signed by Douglas A.J. Schuetz, Acting Commissioner of Planning.
4. A letter dated August 29, 2017 from the Rockland County Highway Department signed by Joseph Arena, Senior Engineering Technician.
5. A letter dated Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated August 22, 2017 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

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

William Brodsky testified that he is before the Board for two reasons: that he needs the wisdom of the Board because he does not believe that he needs all of the variances that the building department is saying he needs; that he has three applications tonight for lots that were existing in 1962; that this should qualify for review as undersized lot just because they existed in 1962; that they should also qualify because they meet two of the three criteria for section 5.21, lot area and lot width; that the building height should also be denied under Section 5.21 e for 20' permitted; that the other item that the building department has decided in error is how it calculates the 6 6 6

height for lot; that according to the code, building height should be calculated from the front yard designation to the street line; that Mr. Kaiser wrote John Giardiello a letter regarding this and John Giardiello changed how it is measured sometime after; that he has met with John Edwards and Dennis Michaels regarding this subject and they agree with him; and he would appreciate clear direction from the Board because he will be returning with other undersized lots.

At this time the Board requested an Attorney/client privileged session to ask some legal questions, and left the room.

The Board returned and Dennis Michaels stated that he and John Edwards discussed this and came to the conclusion that the applicant is entitled to enjoy the loosening of bulk regulations because the lots existed prior to 1965 and they meet at least one criteria of three criteria for a substandard lot; and that the applicant is entitled to a maximum height of 20' under Section 5.21 e; and the Board agreed that the law should be interpreted this way.

After that the Board went over the variances that were originally part of the referral and removed the side yard and total side yard requests and recognized the substandard existing conditions for lot area and lot width.

Public Comment:

Christopher Tierney, 12 Ryerson Place, testified that he is adjacent to lot #10; that he is very concerned about water runoff; that there are significant wetlands on these lots; that the lots have sat vacant for the last twenty years and have full growth on them and the neighborhood still has water problems; that the water table here is high; that these houses are large for the lots and that he would request that the Board ensure that the plans are reviewed for drainage; that he does not want to have water in his back yard; and would feel some assurance if a drainage plan was submitted and approved by the Town Engineer.

David Hinricksen, 14 Ryerson Place, testified that he abuts 12 and 10 Ryerson; that he is very concerned about water and how the properties will be graded; that he will be the lowest property on that side of the cul de sac; and that he would like the Town Engineer to review a drainage plan that would protect the existing home owners during after the construction.

Steve Mattera, 18 Ryerson Place, testified that water is a major concern; that the Brook is in his backyard; and that he would like to know who would be responsible if his house is damaged because of this construction.

John Stuercke, 4 Ryerson Place, testified that he spoke to Mr. Brodsky earlier and was told about a plan to angle the backyard and put a drain in for drainage but he is concerned about maintaining a drainage pipe once Mr. Brodsky sells the houses and he would feel better if a drainage plan was submitted and approved by the Town engineer.

Cheryl Mattera, 18 Ryerson Place, questioned the board about who would be liable if these houses are built and they cause problems for the existing home owners.

Dennis Michaels stated that the Board cannot decide liability.

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:08
TOWN OF ORANGETOWN

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:

- (A) Pursuant to § 5.21 of the Orangetown Zoning Code (Chapter 43 of the Orangetown Code), since the subject property was either owned individually and separately, and separated from any adjoining tracts of land, on July 29, 1965, and which has not subsequently become attached to other adjoining land in the same ownership, and/or has a total area, lot with **OR** lot frontage less than the minimum required in the Bulk Table, then the subject property benefits from the relaxed, less restrictive, bulk requirements of Zoning Code § 5.21 (c0 and e); and, therefore, this Application only requires area/bulk variances for Floor Area Ratio and Building Height, which maximum Building Height is 20' as per §5.21(e).
- (B) the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:
1. The requested floor area ratio, and Section 5.21 e (27.5' proposed, and 20' permitted) building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar houses have been constructed in the neighborhood.
 2. The requested floor area ratio, and Section 5.21 e (27.5' proposed, and 20' permitted) building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar houses 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 than by obtaining variances.
 4. The requested Floor Area ratio and Building Height (27.5') variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar houses have been constructed in the neighborhood.
 5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.
 6. The approval shall be conditioned upon the site development plan being reviewed by the Town's drainage consultant Engineer, and his finding that there will be a zero net increase in surface water runoff, and that the drainage plan is otherwise acceptable, the costs of which consultant shall be paid for by the applicant, including the remittance to OBZPAE of an escrow deposit.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED as follows:

- (A) Pursuant to § 5.21 of the Orangetown Zoning Code (Chapter 43 of the Orangetown Code), since the subject property was either owned individually and separately, and separated from any adjoining tracts of land, on July 29, 1965, and which has not subsequently become attached to other adjoining land in the same ownership, and/or has a total area, lot with OR lot frontage less than the minimum required in the Bulk Table, then the subject property benefits from the relaxed, less restrictive, bulk requirements of Zoning Code § 5.21 (c) and (e); and, therefore, this Application only requires area/bulk variances for Floor Area Ratio and Building Height, which maximum Building Height is 20' as per § 5.21(e).
- (B) The application for the requested Floor Area Ratio and Building Height (27.5' proposed, and 20' maximum permitted), variances are APPROVED.

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:

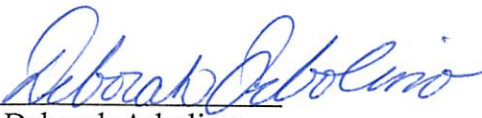
- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit 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 Floor Area Ratio, and Building Height (27.5' Proposed, 20' maximum permitted), variances; and to determine/ interpret that the lot area, lot width side yard and total side yard variances are **not** required, with the Specific Condition that: the approval shall be conditioned upon the site development plan being reviewed by the Town's drainage consultant Engineer, and his finding that there will be a zero net increase in surface water runoff, and that the drainage plan is otherwise acceptable, the costs of which consultant shall be paid for by the applicant, including the remittance to OBZPAE of an escrow deposit; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Mr. Sullivan 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: September 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-D.M.

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

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:08
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO (.309) AND BUILDING HEIGHT (27.5' PROPOSED, AND 20' MAXIMUM ALLOWED) VARIANCES APPROVED; AND LOT AREA, LOT WIDTH, SIDE YARD AND TOTAL SIDE YARD VARIANCES DETERMINED /INTERPRETED BY BOARD TO NOT BE REQUIRED

To: William Brodsky (10 Ryerson Place)
350 Boxberger Road
Valley Cottage, New York 10989

ZBA #17- 68
Date: September 18, 2017
Permit # 46667

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-68: Application of 10 Ryerson Place for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .309 proposed), 5 (Lot Area: 15,000 sq. ft. required, 8,914 sq. ft. existing), 6 (Lot Width: 100' required, 75' existing), 9 (Side Yard: 20' required, 15.5' proposed), 10 (Total Side Yard: 50' required, 31.8' proposed) and 12 (Building Height: 15.5' permitted, 27.5' proposed) for a new single-family residence. The property is located at 10 Ryerson Place, Tappan New York and are identified on the Orangetown Tax Map as Section 77.14 Block 1 Lot 7; R-15 zone.

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

William Brodsky appeared and testified.

The following documents were presented:

1. Plot Plan dated 06/29/2017 for "6 Ryerson Place" signed and sealed by Paul Gdanski, P.E., and Jay A. Greenwell, L.S.
 2. Architectural plans dated June 13, 2017 by Barry Terach, Registered Architect not signed or sealed.
 3. A letter dated September 14, 2017 from the Rockland County Department of Planning signed by Douglas A.J. Schuetz, Acting Commissioner of Planning.
 4. A letter dated August 29, 2017 from the Rockland County Highway Department signed by Joseph Arena, Senior Engineering Technician.
 5. A letter dated Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
 6. A letter dated August 22, 2017 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.
- Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco and carried unanimously.

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

William Brodsky testified that he is before the Board for two reasons; that he needs the wisdom of the Board because he does not believe that he needs all of the variances that the building department is saying he needs; that he has three applications for lots that were existing in 1962; that this should qualify for review as undersized lot just because they existed in 1962; that they should also qualify because they meet two of the three criteria for section 5.21, lot area and lot width; that the building height should also be denied under Section 5.21 e for 20' permitted; that the other item that the building department has decided in error is how it calculates the 6 6 6

height for lot; that according to the code, building height should be calculated from the front yard designation to the street line; that Mr. Kaiser wrote John Giardiello a letter regarding this and John Giardiello changed how it is measured sometime after; that he has met with John Edwards and Dennis Michaels regarding this subject and they agree with him; and he would appreciate clear direction from the Board because he will be returning with other undersized lots.

At this time the Board requested an Attorney/client privileged session to ask some legal questions, and left the room.

The Board returned and Dennis Michaels stated that he and John Edwards discussed this and came to the conclusion that the applicant is entitled to enjoy the loosening of bulk regulations because the lots existed prior to 1965 and they meet at least one criteria of three criteria for a substandard lot; and that the applicant is entitled to a maximum height of 20' under Section 5.21 e; and the Board agreed that the law should be interpreted this way.

After that the Board went over the variances that were originally part of the referral and removed the side yard and total side yard requests and recognized the substandard existing conditions for lot area and lot width.

Public Comment:

Christopher Tierney, 12 Ryerson Place, testified that he is adjacent to lot #10; that he is very concerned about water runoff; that there are significant wetlands on these lots; that the lots have sat vacant for the last twenty years and have full growth on them and the neighborhood still has water problems; that the water table here is high; that these houses are large for the lots and that he would request that the Board ensure that the plans are reviewed for drainage; that he does not want to have water in his back yard; and would feel some assurance if a drainage plan was submitted and approved by the Town Engineer.

David Hinricksen, 14 Ryerson Place, testified that he abuts 12 and 10 Ryerson; that he is very concerned about water and how the properties will be graded; that he will be the lowest property on that side of the cul de sac; and that he would like the Town Engineer to review a drainage plan that would protect the existing home owners during after the construction.

Steve Mattera, 18 Ryerson Place, testified that water is a major concern; that the Brook is in his backyard; and that he would like to know who would be responsible if his house is damaged because of this construction.

John Stuercke, 4 Ryerson Place, testified that he spoke to Mr. Brodsky earlier and was told about a plan to angle the backyard and put a drain in for drainage but he is concerned about maintaining a drainage pipe once Mr. Brodsky sells the houses and he would feel better if a drainage plan was submitted and approved by the Town engineer.

Cheryl Mattera, 18 Ryerson Place, questioned the board about who would be liable if these houses are built and they cause problems for the existing home owners.

Dennis Michaels stated that the Board cannot decide liability.

TOWN CLERK'S OFFICE
2017 OCT 11 P 1:08
TOWN OF ORANGETOWN

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:

- (A) Pursuant to § 5.21 of the Orangetown Zoning Code (Chapter 43 of the Orangetown Code), since the subject property was either owned individually and separately, and separated from any adjoining tracts of land, on July 29, 1965, and which has not subsequently become attached to other adjoining land in the same ownership, and/or has a total area, lot with **OR** lot frontage less than the minimum required in the Bulk Table, then the subject property benefits from the relaxed, less restrictive, bulk requirements of Zoning Code § 5.21 (c) and (e); and, therefore, this Application only requires area/bulk variances for Floor Area Ratio and Building Height, which maximum Building Height is 20' as per § 5.21(e).
- (B) the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:
1. The requested floor area ratio, and Section 5.21 e (27.5' proposed, and 20' permitted) building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar houses have been constructed in the neighborhood.
 2. The requested floor area ratio, and Section 5.21 e (27.5' proposed, and 20' permitted) building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar houses 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 than by obtaining variances.
 4. The requested Floor Area ratio and Building Height (27.5') variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar houses have been constructed in the neighborhood.
 5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.
 6. The approval shall be conditioned upon the site development plan being reviewed by the Town's drainage consultant Engineer, and his finding that there will be a zero net increase in surface water runoff, and that the drainage plan is otherwise acceptable, the costs of which consultant shall be paid for by the applicant, including the remittance to OBZPAE of an escrow deposit.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED as follows:

- (A) Pursuant to § 5.21 of the Orangetown Zoning Code (Chapter 43 of the Orangetown Code), since the subject property was either owned individually and separately, and separated from any adjoining tracts of land, on July 29, 1965, and which has not subsequently become attached to other adjoining land in the same ownership, and/or has a total area, lot with **OR** lot frontage less than the minimum required in the Bulk Table, then the subject property benefits from the relaxed, less restrictive, bulk requirements of Zoning Code § 5.21 (c) and (e); and, therefore, this Application only requires area/bulk variances for Floor Area Ratio and Building Height, which maximum Building Height is 20' as per § 5.21(e).
- (B) The application for the requested Floor Area Ratio and Building Height (27.5' proposed, and 20' maximum permitted), variances are APPROVED.

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:

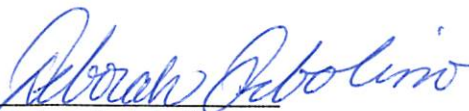
- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit 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 Floor Area Ratio, and Building Height (27.5' Proposed, 20' maximum permitted), variances; and to determine/ interpret that the lot area, lot width side yard and total side yard variances are not required, with the Specific Condition that: the approval shall be conditioned upon the site development plan being reviewed by the Town's drainage consultant Engineer, and his finding that there will be a zero net increase in surface water runoff, and that the drainage plan is otherwise acceptable, the costs of which consultant shall be paid for by the applicant, including the remittance to OBZPAE of an escrow deposit; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Mr. Sullivan 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: September 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-D.M.

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

TOWN OF ORANGETOWN
2017 OCT 11 P 1:08
TOWN CLERK'S OFFICE

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Karen Wade
31 Azalea Drive
Nanuet, New York 10954

ZBA #17-69
Date: September 18, 2017
Permit # 46696

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-69: Application of Karen Wade for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Columns 9 (Side Yard: 25' required, 20.08' proposed), 10 (Total Side Yard: 60' required, 49.1' proposed) for additions/ alterations to an existing single-family residence. The property is located at 31 Azalea Drive, Nanuet, New York and are identified on the Orangetown Tax Map as Section 69.06 Block 2 Lot 43; R-22 zone.

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

Karen Wade and Michael Wade appeared and testified.

The following documents were presented:

1. Architectural plans dated June 6, 2017 by Harry J. Goldstein, Registered Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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 was absent.

Karen Wade testified that her parents live with them and help care for their three and five year old children; that they purchased the house in July and would like to add an addition to allow her parents some privacy when they need it; that they are planning to convert half of the two car garage into living space and add out a little into the rear yard to provide them with a living room and bedroom and private bathroom; that presently they are sleeping in the spare bedroom; that they are not adding a second kitchen; that there is a space for a sink and counter that they would use if they bar-b-que outside; that he parents will be eating with them in the main section of the house and they would have a door separating their private space but it would also be part of their house; that they would like to keep one part of the garage for their car; and they are working on making the drywell larger to capture water in the yard.

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Public Comment:

Don Hegadorn, 29 Azaela Drive, testified that he would like to understand the side yard variance and the Board explained it; that there is swale that runs thru their yard to his yard and that the drainage needs remediation.

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. 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 side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant testified that her parents live with them, and part of the addition is being constructed to give them some private space, but they are not proposing a separate kitchen, that they are not installing any cooking facilities in the space that will be occupied by her parents and they do not need approval per Local Law #7 of 1981. Similar additions have been constructed in the area.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant testified that her parents live with them, and part of the addition is being constructed to give them some private space, but they are not proposing a separate kitchen, that they are not installing any cooking facilities in the space that will be occupied by her parents and they do not need approval per Local Law #7 of 1981. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard and total 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. The applicant testified that her parents live with them, and part of the addition is being constructed to give them some private space, but they are not proposing a separate kitchen, that they are not installing any cooking facilities in the space that will be occupied by her parents and they do not need approval per Local Law #7 of 1981. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

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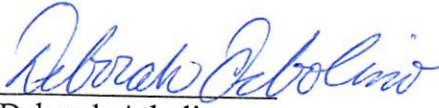
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The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Ms. Salomon, seconded by Mr. Feroldi and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye;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

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