

MINUTES
ZONING BOARD OF APPEALS
APRIL 17, 2013

MEMBERS PRESENT:

JOAN SALOMON
NANETTE ALBANESE
PATRICIA CASTELLI
MICHAEL BOSCO
LEONARD FEROLDI, ALTERNATE

ABSENT:

DANIEL 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 Mr. Sullivan, Chairman.

Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

APPLICANTS

PUBLISHED ITEMS

DECISIONS

NEW ITEM:

WONG	FRONT YARD VARIANCE	ZBA#13-25
77.10 / 2 / 56; r-15 zone	APPROVED	

ADDITIONAL 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: Baked by Angels Café, 3 Veterans Parkway, Pearl River, NY 69.05 / 2 / 76; CO 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 7:30 P.M.

Dated: April 17, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By



Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

TOWN CLERKS OFFICE

2013 APR 30 PM 12:59

TOWN OF ORANGETOWN

DECISION
FRONT YARD VARIANCE APPROVED

To: Frank and Marcia Wong
46 Western Highway
Tappan, New York 10983

ZBA # 13-25
Date: April 17, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-25: Application of Frank and Marcia Wong for a variance from Chapter 43 (Zoning) Town of Orangetown, Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 22' proposed) to rebuild existing stairs and front entry at an existing single-family residence. The premises are located at 46 Western Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 2, Lot 56; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 17, 2013 at which time the Board made the determination hereinafter set forth.

Frank Wong, Matt Wissell and Meeka Van Derwal appeared and testified.

The following documents were presented:

1. Site plan.
2. Design plan for proposed bluestone and cultured stone entry.

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) &/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Bosco, aye. Mr. Sullivan was absent.

Frank Wong testified that he and his wife have owned the house since 1968; that the existing stairs are getting difficult.

Matt Wissell, testified that Mr. Wong has had issues with his hip; that the current stairway is getting difficult to navigate; that the ne proposed staircase has a more gradual incline with five steps and a landing and five more additional steps; that there will also be a railing that would help with the stairs and make them safer.

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Public Comment:

No public comment.

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

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

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The additional landing and more gradual incline is necessary for safety reasons for the applicants, and the new staircase will be more attractive and enhance the house.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The additional landing and more gradual incline is necessary for safety reasons for the applicants, and the new staircase will be more attractive and enhance the house.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Ms. Castelli, seconded by Ms. Albanese and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Albanese, 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: April 17, 2013

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
OEBZPAE
BUILDING INSPECTOR -R.O.

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

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