

MINUTES  
ZONING BOARD OF APPEALS  
FEBRUARY 20, 2013

MEMBERS PRESENT:

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

ABSENT: NONE

ALSO PRESENT:

Dennis Michaels, Esq. Deputy Town Attorney  
Ann Marie Ambrose, Official Stenographer  
Elizabeth Decort, Clerk Typist

This meeting was called to order at 7:00 P.M. by Mr. Sullivan, Chairman.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

FITZPATRICK 73.05 / 1 / 83; R-15 zone	BUILDING HEIGHT AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED AS MODIFIED	ZBA#13-13
TRUIANO 69.09 / 5 / 24; R-15 zone	FLOOR AREA RATIO AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#13-14
TOBIN 69.16 / 3 / 7; R-40 zone	ACCESSORY STRUCTURE SIDE & REAR YARD VARIANCES APPROVED	ZBA#13-15
ORANGEBURG COMMONS PYLON SIGN 74.15 / 1 / 21; LI zone	SIGN SET-BACK VARIANCE APPROVED	ZBA#13-16

OTHER BUSINESS:

ZBA# 13-11: Application of Washington Dental Associates for variances from Chapter 43 (Zoning), Section 3.12, CS District, Column 5 Paragraph 6 (a) (Total Sign Area: 40 sq. ft. permitted, 269.6 sq. ft. proposed), and from paragraph 6 (b) (2) (Signs not attached to building shall be 20' from property line; 0' proposed) for five signs at a new dentist office. The premises are located at 140 Oak Tree Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 2, Lot 47; CS zoning district. The above item was reviewed on February 6, 2013 and was approved as

TOWN OF ORANGETOWN  
2013 FEB 27 PM 12 44  
TOWN CLERKS OFFICE

modified to two (2) 3' x 6' light box building signs and one 27 sq. ft. monument sign to be placed at the property line. Since that hearing, the applicant changed the wording on the sign. The size, dimension and location have not changed, and the Board has no objection to the change in verbiage on the sign. The Board directed the clerk to sign the revised plans.

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:  
LSI Services Inc. Site Plan Review, 336 Blaisdell Road, Orangeburg, New York, 76.08 / 1 / 1; LJO zone; All County Properties, LLC Site Plan Review, 11 Old School Lane, Orangeburg, New York, 74.07 / 1 / 29; LI 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: February 20, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino  
Administrative Aide

**DISTRIBUTION:**

APPLICANT  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
ASSESSOR  
HIGHWAY DEPARTMENT  
SUPERVISOR  
TOWN BOARD MEMBERS  
BUILDING INSPECTOR (Individual Decisions)  
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING  
Rockland County Planning

TOWN CLERKS OFFICE

2013 FEB 27 PM 12:44

TOWN OF ORANGETOWN

DECISION

**BUILDING HEIGHT AND ACCESSORY STRUCTURE DISTANCE  
VARIANCES APPROVED AS MODIFIED**

To: Teresa Fitzpatrick  
216 Gilbert Avenue  
Pearl River, New York 10965

ZBA # 13-13  
Date: February 20, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-13: Application of Teresa Fitzpatrick for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-15 District, Section 5.21 (e) (Building Height: 20' permitted, 24' 7" proposed) and from Section 5.153 (Accessory structure distance from principal building: 15' required, 7' proposed) for an addition to an existing single-family residence. The premises are located at 216 Gilbert Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 73.05, Block 1, Lot 83; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 20, 2013 at which time the Board made the determination hereinafter set forth.

Jonathan Villani, Design Contractor and Teresa Fitzpatrick appeared and testified.

The following documents were presented:

1. Architectural plans dated 8/21/2012 with the latest revision date of 10/31/2012 by Annunziata and Villani Design Consultants not signed or sealed. (11 pages)
2. A letter dated February 1, 2013 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
3. A letter dated February 5, 2013 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.

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

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

Jonathan Villani testified that the lot is a very odd shape; that it does not allow for any expansion without the need for variances; that there is a 20' height restriction on the lot and the proposed second story would be 24'7"; that this is an undersized lot for the R-15 district; that the design does not call for a flat roof; that the aesthetics would be severely compromised with a flat roof; that the attic would be used for storage, air ducts and air handler, and is not habitable; that the greater the pitch of the roof, the better the runoff; that they are still below the floor area ratio requirements; that they could change the pitch of the to 10 and bring the height down to 22' 7"; that the distance between the house and the garage is seven feet and is not changing.

Teresa Fitzpatrick testified that they have owned the house for ten years.

**TOWN CLERKS OFFICE**

**2013 FEB 27 PM 12 44**

**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.

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 building height and accessory structure distance variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The constraints of the lot make it difficult to make any alterations to the building. The applicant has reduced the pitch of the roof to reduce the requested building height to 22' 7".
2. The requested building height and accessory structure distance variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The constraints of the lot make it difficult to make any alterations to the building. The applicant has reduced the pitch of the roof to reduce the requested building height to 22' 7".
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested building height and accessory structure distance variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**TOWN CLERKS OFFICE**

**2013 FEB 27 PM 12:44**

**TOWN OF ORANGETOWN**

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested building height and accessory structure distance variances are APPROVED as MODIFIED by reducing the pitch of the roof to a 10 over 12; the building height has been reduced to 22' 7"; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

TOWN CLERKS OFFICE

2013 FEB 27 PM 12:44

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested building height, as modified to 22' 7", and accessory structure distance variances was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: February 20, 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  
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  
2013 FEB 27 PM 12:44  
TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO AND TOTAL SIDE YARD VARIANCES APPROVED**

To: Andrew and Sandra Truiano  
15 Meadows Street  
Pearl River, New York 10965

ZBA # 13-14  
Date: February 20, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-14: Application of Andrew and Sandra Truiano for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 required, .23 existing, .30 proposed) and 10 (Total Side Yard: 50' required, 32.3' proposed) for an addition to an existing single-family residence. Premises are located at 15 Meadows Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 24; R-15 zone.

Held by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 20, 2013 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Sandra Truiano appeared and testified.

The following documents were presented:

1. Survey dated September 2, 2012 signed (not sealed) by Edward G. Mihalczko, L.S.
2. Architectural plans dated 10/19/2012 signed and sealed by Rudolph Dupuy, Architect.

Mr. Sullivan, Chairman, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Bosco, aye.

Donald Brenner, Attorney, testified that the Truiano's have three children; that they recently purchased this house which is in need of some work; that they are proposing to keep an existing deck that requires a variance and that they are reconstructing a two car garage, half of which will be used for storage of bicycles and equipment; that they require a side yard and a floor area ratio variance in order to complete this work.

TOWN CLERKS OFFICE  
2013 FEB 27 PM 12:14  
TOWN OF ORANGETOWN

Public Comment:

Barbara Paone, 7 Meadows Street, testified that the previous owner had a permit for the deck in its current location; that perhaps there was mistake in issuing that permit without a variance.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition/ alteration are being constructed on an existing foundation.
2. The requested floor area ratio 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 proposed addition/ alteration are being constructed on an existing foundation.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and 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 deck is existing and the garage is being reconstructed on an existing foundation.
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  
2013 FEB 27 PM 12:44  
TOWN CLERKS OFFICE



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio 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 OF ORANGETOWN  
2013 FEB 27 PM 12:44  
TOWN CLERKS OFFICE

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

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: February 20, 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  
OBZPAE  
BUILDING INSPECTOR -R.A.O.

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

TOWN OF ORANGETOWN  
2013 FEB 27 PM 12:44  
TOWN CLERKS OFFICE

DECISION

**ACCESSORY STRUCTURE: SIDE YARD AND REAR YARD VARIANCES  
APPROVED**

To: Patricia Tobin  
187 Van Wyck Road  
Blauvelt, New York 10913

ZBA # 13-15  
Date: February 20, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-15: Application of Patricia Tobin for variances from Chapter 43 (Zoning), R-40 District, Section 5.227 (Accessory Structure over 100 sq. ft. must meet side yard and rear yard setbacks of the zone) Section 3.12, Columns 9 (Side Yard: 30' required, 12' proposed) and 11 (Rear Yard: 50' required, 15' proposed) for replacement of a shed at an existing single-family residence. The premises are located at 187 Van Wyck Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.16, Block 3, Lot 7; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 20, 2013 at which time the Board made the determination hereinafter set forth.

Patricia Tobin appeared and testified.

The following documents were presented:

1. Copy of survey with block foundation shown, dated March 7, 2012 by William James, P.L.S.
2. Computer generated picture of proposed shed.
3. Zoning Board of Appeals Decision #12-79 dated November 21, 2012.

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

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

Patricia Tobin testified that she purchased the house less than a year ago; that there was an existing sheet metal shed on the property that was falling apart; that she asked that the previous owner remove it before the closing and they did; that the previous owner was a member of the Zoning Board; that the concrete slab for the shed is existing; that she thought that she would be able to get a permit and put the new shed in the same location; that when she applied for the permit, she found out that the shed needed a variance; that she would like to install the shed on the existing concrete pad because it makes sense to use it and this is most logical location for the shed on the property; that she does not have the certificate of occupancy for the pool yet because she has not installed the fence that she got a variance for yet; and that she would like to install the shed first because it comes be assembled and will not fit through the gate of the new fence.

TOWN CLERKS OFFICE  
2013 FEB 27 PM 12:44  
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.

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 accessory structure rear yard and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant is replacing a shed that existed for many years in the proposed location. The concrete foundation for the shed is existing and moving the shed to another location would be very costly.
2. The requested accessory structure rear yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant is replacing a shed that existed for many years in the proposed location. The concrete foundation for the shed is existing and moving the shed to another location would be very costly.
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 accessory structure rear yard and side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The concrete pad for the shed is existing and it would be very costly to remove this pad and install a new one.
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 CLERKS OFFICE

2013 FEB 27 PM 12:44

TOWN OF ORANGETOWN

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

General Conditions:

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

TOWN CLERKS OFFICE

2013 FEB 27 PM 12:44

TOWN OF ORANGETOWN

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

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: February 20, 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  
OBZPAE  
BUILDING INSPECTOR -B.vw.

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

TOWN OF ORANGETOWN  
2013 FEB 27 PM 12:44  
TOWN CLERKS OFFICE

DECISION  
**PYLON SIGN LOCATION VARIANCE APPROVED**

To: Geraldine Tortorella (Orangeburg Commons sign)  
One North Broadway Suite 701  
White Plains, New York 10601-2319

ZBA # 13-16  
Date: February 20, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-16: Application of Orangeburg Commons for a variance from Chapter 43 (Zoning), Section 3.11, LI District, Column 5 # 8 (c) ( All signs shall be set back 30' from front lot line: 20' proposed) for a pylon sign. The property is located at the intersection of Stevens Way and Route 303, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 21; LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 20, 2013 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Attorney , James Ambrose, Alfred Rossi, and Susan Sasson, appeared and testified.

The following documents were presented:

1. Pylon sign plan dated 1/4/2013 prepared by Leonard Jackson Associates.
2. Site plan dated 9/14/ 2012 by Leonard Jackson Associates.
3. Photograph of existing condition of previously approved signs on Route 303.
4. Letter dated January 10, 2013 from Geraldine Tortorella, Attorney.
5. Planning Board decisions #12-07 and #12-28.
6. A letter dated February 5, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
7. A letter dated January 18, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permitting Engineer.
8. A partial site plan with the stream colored in and the location of the sign.

Mr. Sullivan, Chairman, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli aye; and Mr. Bosco, aye.

Geraldine Tortorella, Attorney, testified that the site plan received approval in 2011 and again in 2012; that there are 15.77 acres on the site; that it is located in the LI zone; that the present proposal is for a supermarket, two hotels, a restaurant, and a bank; that the original site plan had separate retail building that has been combined to form the Stop & Shop; that the proposed pylon sign was previously approved by the Planning Board and Architectural Review Board at the required 30' set back from Route 303 and Steven's Way; that the amended site plan approval also provided for the elimination of a substantial retaining wall on the east side of the Orangeburg Commons parking field; that

TOWN OF ORANGETOWN  
CLERKS OFFICE  
FEB 27 PM 12:44

in order to accommodate that change, a change in grading for relocation of the stream in the northeast corner of the Orangeburg Commons project made a provision for a level area abutting the stream bed on which the sign structure was to be constructed; that due to field conditions, the level area on which the pylon sign structure was to be constructed could not be accommodated and the grading of the banks of the stream resulted in a sloped embankment where the sign was to have been built; that it would not be practical to try to locate the sign on a rip-rap covered clapping stream embankment on the north side of the stream; that construction and maintenance of the sign structure and sign face requires use of a cherry picker and other large equipment and vehicles; that there is not a sufficiently level area setback 30 feet from Route 303 and Stevens way; that there is the right topography located 20' from Stevens Way and 30' from Route 303; and that they are requesting this location for the sign.

Public Comment:

None

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. Albanese 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 pylon sign location variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed location has been restricted because of the change to the existing stream bed.
2. The requested sign area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed location has been restricted because of the change to the existing stream bed.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.

TOWN CLERKS OFFICE  
2013 FEB 27 PM 12:44  
TOWN OF ORANGETOWN



4. The requested sign area variance, although substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed location has been restricted because of the change to the existing stream bed.
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 sign location variance is APPROVED with the Specific Condition that the applicant comply with the letter dated January 18, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer: 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  
2013 FEB 27 PM 12 45  
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested pylon sign location variance with the Specific Condition that all concerns stated in the letter dated January 18, 2013 from Mary Jo Russo, P.E., Rockland County Permit Engineer, NYSDOT are addressed, was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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: February 20, 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  
OBZPAE  
BUILDING INSPECTOR -B.V.W.

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

TOWN OF ORANGETOWN  
2013 FEB 27 PM 12:46  
TOWN CLERKS OFFICE