

MINUTES
ZONING BOARD OF APPEALS
FEBRUARY 6, 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
Deborah Arbolino, Administrative Aide

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

PEATICK 70.15 / 1 / 7; R-15 zone	EXTENSION OF TIME TO IMPLEMENT VARIANCES GRANTED IN ZBA #09-60 APPROVED	ZBA#13-09
OZANIAN 70.14 / 2 / 12; R-15 zone	EXTENSION OF TIME TO IMPLEMENT VARIANCES GRANTED IN ZBA#07-84 APPROVED	ZBA#13-10
WASHINGTON DENTAL ASSOCIATES 77.15 / 2 / 47; CS zone	TOTAL SIGN AREA: 63 SQ. FT. GRANTED FOR THREE SIGNS MONUMENT SIGN LOCATION APPROVED WITH CONDITIONS	ZBA#13-11
STOP & SHOP 74.15 / 1 / 21; LI zone	SIGNAGE APPROVED AS SUBMITTED	ZBA#13-12

TOWN CLERKS OFFICE

2013 FEB 27 PM 12:10

TOWN OF ORANGETOWN

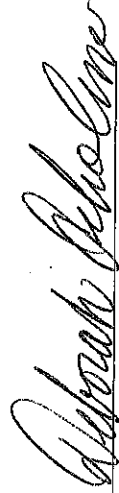
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 6, 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 50

TOWN OF ORANGETOWN

DECISION

**EXTENSION OF TIME GRANTED TO IMPLEMENT VARIANCES GRANTED
IN ZBA#09-60**

To: Michelle Peatick
320 Greenbush Road
Blauvelt, New York 10913

ZBA # 13-09
Date: February 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-09: Application of Michelle Peatick for an extension of time to implement variances granted in ZBA#09-60: Application of Wilda Shaboyan for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown R-15 District, Section 3.11 Section 3.11, refer to R-80, Column 2 #7 (600 sq. ft. permitted, 863 sq. ft. proposed) for a second dwelling unit for an owner occupied single-family conversion of a single-family residence to allow a second dwelling unit pursuant to Orangetown Code Chapter 43 (Zoning) § 4.5. The premises are located at 320 Greenbush Road, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 7; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 6, 2013 at which time the Board made the determination hereinafter set forth.

Michelle Peatick appeared and testified.

The following documents were presented:

1. Hand drawing of the existing apartment layout.
2. Zoning board of Appeals Decision #09-60 dated September 23, 2009.
3. A covenant dated November 17, 2009.

Mr. Sullivan, Chairman, 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, 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. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi, aye; and Mr. Bosco, aye. Ms. Castelli was absent for this hearing.

Michelle Peatick testified that she is requesting an extension of time to implement the variance that was granted a few years ago; that the covenant was filed and her mom thought that was all she had to do; that since then her mom passed away and she found out that she does not have a certificate of occupancy for the apartment; that she would like to be able to rent out the apartment and needs the certificate of occupancy in order to do that; that she has lived in the house for 45 years and no one is residing down stairs presently.

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Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. 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 extension of time to implement variances granted in ZBA#09-60 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 863 sq. ft. apartment has existed since 1971 and the applicant has filed a covenant with the Town and County Clerk.
2. The requested extension of time to implement the variances granted in ZBA#09-60 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 863 sq. ft. apartment has existed since 1971 and the applicant has filed a covenant with the Town and County Clerk.
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. No significant change in circumstances has occurred since the prior approved variance was granted that would warrant Board reconsideration of its approval.
5. The requested extension of time to implement the variances granted in ZBA#09-60 is not substantial.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested extension of time to implement the variances granted in ZBA#09-60 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 extension of time to implement the variance granted in ZBA#09-60 was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Salomon, aye; and Mr. Feroldi, aye. Ms. Castelli was not present for this hearing.

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 6, 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 CLERKS OFFICE

2013 FEB 27 PM 12:40

TOWN OF ORANGETOWN

DECISION

EXTENSION OF TIME TO IMPLEMENT FLOOR AREA RATIO AND TOTAL SIDE YARD VARIANCES GRANTED IN ZBA#07-84

To: Stephen and Cynthia Ozanian ZBA # 13-10
21 E. Erie Street Date: February 6, 2013
Blauvelt, New York 10901

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-10: Application of Stephen and Cynthia Ozanian for an extension of time to implement the variances granted in ZBA#07-84: Application of Stephen Ozanian for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 required, .29 existing, .30 proposed) and 10 (Total Side Yard: 50' required, 39.6' and 37.6' proposed) for an addition to an existing single-family residence. Premises are located at 21 E. Erie Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.14, Block 2, Lot 12; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 6, 2013 at which time the Board made the determination hereinafter set forth.

Stephen Ozanian appeared and testified.

The following documents were presented:

1. Copy of site plan.
2. Architectural plans dated 5/17/2007 signed and sealed by Vincent M. Acocella, Architect.
3. Zoning Board of Appeals Decision #07-84 dated September 5, 2007.
4. A letter dated January 3, 2013 from Stephen and Cynthia Ozanian.
5. A letter dated February 6, 2013 in support of the application from an abutting property owner.

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. Salomon and carried as follows: Ms. Albanese, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Mr. Bosco, aye. Ms. Castelli was absent for this hearing.

Stephen Ozanian testified that they came before the Board for variances in 2007 for floor area ratio and total side yard variances because they had a water issue; that the issue still exists but they were unable to do the construction at the time for financial reasons; that they are able to move forward with the plans now; that they are asking for an extension of time to implement the variances that were granted on the plans that were previously submitted; that they have not changed the plans and a one year extension would be a sufficient amount of time to get the work done.

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Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. 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 extension of time to implement the variances granted in ZBA# 07-84 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has stated that a one year extension of time would be sufficient to implement the project.
2. The requested extension of time to implement the variances granted in ZBA#07-84 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. No significant change in circumstances has occurred since the prior approved variances were granted that would warrant Board reconsideration of its approval.
4. Applicants stated that they expect construction to begin in the near future.
5. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining 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 extension of time to implement the variances granted in ZBA#07-84 is APPROVED for one year from the date this decision is stamped; 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 extension of time to implement the variances granted in ZBA#07-84 (one year from the date of this stamped decision) 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 Mr. Feroldi, aye. Ms. Castelli was not present for this hearing.

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 6, 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

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TOWN OF ORANGETOWN

DECISION

**TOTAL SIGN AREA VARIANCE APPROVED AS MODIFIED
SIGN LOCATION VARIANCE APPROVED AS MODIFIED**

To: Mariliza LaCap (Washington Dental Signage)
10 Hillcrest Court
Old Tappan, New Jersey 07675

ZBA # 13-11

Date: February 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

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.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 6, 2013 at which time the Board made the determination hereinafter set forth.

Mariliza LaCap and Dr. DarrenTong appeared and testified.

The following documents were presented:

1. Copy of site plan with latest revision date of 7/28/2011 with proposed signs drawn on it.
2. Computer generated pictures of the proposed signage (one page).
3. A letter dated January 25, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated January 22, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

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. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi, aye; and Mr. Bosco, aye. Ms. Castelli was not present for this hearing.

Maraliza LaCap testified that Washington Dental Associates is going to be called Smile More Dentistry; that this has been an ongoing project; that she is requesting the sign on the corner for visibility; that it will help the business; that it doesn't have to be that large; that the sign contractor came up with the sizes; that she does not need five signs; that she really wants the corner sign and two signs on the building; that it was very costly to purchase the building and she liked the location on the corner of Oak Tree Road and Route 303; that she wants the LED sign to show that they do a lot of community service and she would like to show the time and temperature; that different messages could also be displayed ; that they offer a free day of dentistry and would advertise it on the sign; that she is willing to reduce the building signs to 3' x 6' and only have two of them with the smaller monument sign reduced to 27 sq. ft.; that The total signage would be 63 sq. ft.

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and that she will meet all of the requirements of the letter from the Department of Transportation.

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 total sign area (reduced to 63 sq. ft.) and sign location variances, as modified to one monument sign at the 0' setback at the corner of Route 303 and Oak Tree Road, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested total sign area (reduced to 63 sq. ft.) and sign location variances, as modified to one monument sign at the 0' setback at the corner of Route 303 and Oak Tree Road, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The monument sign and footings must be placed outside of the state right of way, and the existing drainage line shall not be damaged. A permit from the State of New York Department of Transportation shall be obtained for any work done in the state right of way including grading and landscaping.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested total sign area and sign location variances, as modified, 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.
6. 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 total sign area (reduced to 63 sq. ft. total which includes two [2] wall signs measuring 3' x 6' each, and one monument sign 27 sq. ft.) and sign location variances are APPROVED with the following SPECIFIC CONDITIONS: (1) The monument sign and footings must be placed outside of the State right of way and the existing drainage line shall not be damaged; (2) A permit from the State of New York Department of Transportation shall be obtained for any work done in the state right of way, including grading and landscaping; 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 sign variances, as modified and with specific conditions was presented and moved by Ms. Salomon, seconded by Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Mr. Bosco, nay; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Feroldi, aye. Ms. Castelli was absent for this hearing.

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 6, 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

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TOWN OF ORANGETOWN

DECISION
SIGN AREA VARIANCE APPROVED AS MODIFIED

To: Geraldine Tortorella (Stop & Shop Sign)
One North Broadway Suite 701
White Plains, New York 10601-2319

ZBA # 13-12
Date: February 6, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-12: Application of Stop & Shop for a variance from Chapter 43 (Zoning), Section 3.11, LI District, Column 5 # 7 (60 sq. ft. signage permitted; 30 sq. ft of which can be illuminated: 307.62 sq. ft. proposed, of which 222.54 sq. ft. are illuminated) The property is located at the intersection of Stevens Way and Route 303, Orangeburg, New York and are 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 6, 2013 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Attorney ,Nathaniel Burnes, Landscape Architect, and Christine Moreau, Magnolia Sign Designer, appeared and testified.

The following documents were presented:

1. Sign plans dated 3/16/2012 by Agnoli Sign Company.
2. Site plan dated 2/1/2012 with the latest revision date of 11/16/ 2012 by Leonard Jackson Associates.
3. Landscape plan dated 2/1/2012 with the latest revision date of 5/9/2012 signed and sealed by Michael Szira, Landscape Architect.
4. Photographs of commercial signage along Route 303
5. Exterior elevation (SK-1) and explanatory memorandum.
6. Planning Board decisions #12-07 and #12-28.
7. A letter dated January 25, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning
8. A picture of the signage at the Stop & Shop in Nanuet was presented at the hearing.

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. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi aye; and Mr. Bosco, aye. Ms. Castelli did not vote because she came in the middle of this hearing.

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 original building was located 354 feet from Route 303 and the Stop & Shop building is located 450 feet from Route 303; that he building is 255 feet long;; that he numbers seem large for the signage but if you take into account the size of the building and its location, the numbers are not large; that the building fronts on three

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streets, Route 303, Stephen's way and Greenbush Road; that the Board could interpret the law as permitting 60 sq. ft. (30 illuminated) for each street frontage and then the numbers do not seem as large; that the proposal is in keeping with character of the neighborhood because Lowe's and Bill Kolb Subaru have similar signage; that Section 4.23 (a) of the Zoning Code allows an interpretation that would permit 60 sq. ft. of signage for each street frontage; that under that interpretation the store would be permitted 180 sq. ft. of signage; that the Stop & Shop building is also set further back off of Route 303 than the Lowe's building which is right next door; that Lowe's was granted a variance for 300 sq. ft. of signage; and it looks appropriate for the size building; and that they feel that they are asking for the appropriate amount of signage for the size of the building.

Public Comment:

Al Rossi, 9 Dorsey Court, Orangeburg, Developer and residential tax payer, stated that this is the biggest project in Town since the Fed Ex building; that signage is the lifeline of a commercial business; that Stop & Shop has a prototype for signage that is being proposed; that competition is high in the field; that this building should be treated similar to Lowe's.

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 sign area variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed building is setback 450 feet from Route 303 and the building is 255 feet in length; the proposed 307 sq. ft. of signage is appropriate for this building in this location.
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 building is setback 450 feet from Route 303 and the building is 255 feet in length; the proposed 307 sq. ft. of signage is appropriate for this building in this location.
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. A single 60 square foot sign on a building that is 255 feet in length would be disproportionate; not serving the applicant, not directing the public.

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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. Similar signs 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 sign area variances are APPROVED; and also to override the letter dated January 25, 2013 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E. Commissioner of Planning; 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.

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- (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 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 application for the requested sign area variances and also to override the letter from the County of Rockland Department of Planning dated January 25, 2013 signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning; was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Feroldi, aye. Ms. Castelli came in late for the hearing and did not vote.

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 6, 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

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