

MINUTES  
ZONING BOARD OF APPEALS  
February 3, 2016

MEMBERS PRESENT: DAN SULLIVAN  
PATRICIA CASTELLI  
JOAN SALOMON  
LEONARD FEROLDI, ALTERNATE

ABSENT: THOMAS QUINN  
MICHAEL BOSCO

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

CONTINUED ITEM:

150 BURROWS LANE  
150 Burrows Lane  
Blauvelt, N.Y.  
70.09 / 3 / 22; R-22 zone

LOT AREA, LOT WIDTH,  
SIDE YARD, TOTAL SIDE  
YARD AND BUILDING HEIGHT  
VARIANCES APPROVED

ZBA#16-01

POSTPONED ITEM:

YONDERHILL  
INTERPRETATION  
1 Closter Road  
Palisades, NY  
78.18 / 1 / 52; R-40 zone

CONTINUED

ZBA#16-05

NEW ITEM:

MAUREEN'S HAIR  
STUDIO  
464 Main Street  
Sparkill, NY  
77.08 / 4 / 21;CS zone

SIGN PROJECTION  
VARIANCE APPROVED  
AS MODIFIED

ZBA#16-08

TOWN CLERKS OFFICE

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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 10:15 P.M.

Dated: February 3, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By Deborah Arbolino

Deborah Arbolino, Administrative Aide

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

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TOWN CLERKS OFFICE

DECISION

**LOT AREA, LOT WIDTH, SIDE YARD, TOTAL SIDE YARD AND BUILDING  
HEIGHT VARIANCES APPROVED**

To: John Ritsich  
4 Foxburn Street  
New City, New York 10956

ZBA #16-01  
Date: January 6, 2016  
February 3, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-01: Application of 150 Burrows Lane for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Columns 5 (Lot Area; 40,000 sq. ft. required, 35,283 sq. ft. existing), 6 ( Lot Width: 150' required, 100.10 proposed), 9 ( Side Yard: 30' required, 20.3' proposed), 10 (Total Side Yard: 80' required, 40.8' proposed) and 12 (Building Height: 13.53' permitted, 24.5' proposed) for a new single-family residence. The premises are located at 128 Burrows Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.09, Block 3, Lot 22; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, January 6, 2016 and February 3, 2016 at which time the Board made the determination hereinafter set forth.

John Ritsich and John Atzl, Land Surveyor, appeared and testified at the January 6, 2016 meeting.

The following documents were presented:

1. Plot plan dated October 20, 2015 signed and sealed by Ryan A. Nasher P.E., and John R. Atzl, L.S..
2. Architectural plans labeled "Nickyritz Enterprises" dated October 5, 2015 with the latest revision date of October 9, 2015 signed and sealed by John Perkins, Registered Architect (6 pages).

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: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

John Atzl, Land Surveyor, testified that the lot is a pre-existing non-conforming lot; that he would argue that Section 5.21 A would apply and then the side yard, total side yard and building height variances would go away; that the Glayolas' purchased the lot in 1952; that it is zoned for a single-family residence; that they are proposing a 2,600 sq. ft. home; that this is not oversized and fits in with the neighborhood; that there are multiple properties in the area with undersized lots and some with 2,500 sq. ft. homes; that the majority of the houses do not conform to the lots and all the lots are deep but not all of the lots are wide.

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John Rulsick, testified that the distance from the neighbor's house is nearly 90'; that there is 120' to the Tao residence; that the front set back is 75 feet; and to the edge of the road there is about 95 feet; that the house was placed in this location to save some of the significant trees, the 36" oak in the front of the proposed house being one of them; that there will be a lot of vegetation left on the lot because of the proposed placement of the house; and that they would like a continuance till the February 3<sup>rd</sup> meeting to get a better interpretation from the Building Inspector.

Public Comment:

Lixin Tao, 5 Celtic Lane, testified that he consulted with the Board regarding a subdivision and was told that each house needs an acre of property; that this proposal will be too close to his house; that he will lose privacy and woods; that he will lose value; that the neighborhood size should be consistent; that six area variances up to 50% is too much and he is strongly against it.

Donna Goldstein, 115 Burrows Lane, diagonally across the street, testified that her parents built their house in 1961 on one acre of property; that she is speaking on behalf of her parents and Barbara and Joe Morrow, that the other houses in the area have significantly more space between them; that this house would totally change the neighborhood and the height changes the character of the neighborhood also.

Poou Varghese-John, 128 Burrows Lane, testified that she and her husband just purchased the house in September 2015 from the Glayolas'; that she knew the lot existed but she thought the house would be built further away from hers' that the house on the other side of hers is close to her already and she hopes that this one could be reconfigured to provide privacy.

Meeting of February 3, 2016

John Ritsich and John Atzl, Land Surveyor, appeared and testified.

No new submissions.

Michael Bosco and Tom Quinn were absent.

Joh Atzl, Land Surveyor, testified that the Building Inspector has determined that they lot does not meet the requirements to be deemed an undersized lot; that they do need all of the variances that were requested in the publication; that he has done a zoning analysis for the neighborhood and found that 31 of the lots conform to the zoning requirements; that 30% of the lots have less than the required lot area; that 30% have less than the required lot width; that 35% have less than the required side yard and total side yards; and 23% have less than the required 20 feet; that the house to the east shall be 90' away from the proposed house; that the house to the southwest will be 130' away from the proposed house; that the neighborhood is very mixed with styles from capes, colonials, bi-levels and reaches exist; that the proposed house is 22,050 sq. ft.; that the size is similar to many houses in the area; that the proposal is a nice fit the neighborhood and a new house brings up the value of surrounding houses.

John Ritsich testified that this is the only vacant lot on Burrows Lane; that he is only grading 30' around the house; that the house is set back to keep an existing large Oak tree and many of the trees on the border of the property are being kept.

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Public Comment:

Tao Xin, 5 Celtic Lane, testified that the new propose house is too large; that it should be smaller; that the lot is smaller and the house should be smaller; that these are 50% variances and they set a bad example.

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 lot area, lot width, 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. The neighborhood is a mixture of many different style houses and many of them have added additions over the years. Many of the properties have smaller than the required 30' side yard and this house is in keeping with the character of the neighborhood.
2. The requested lot area, lot width, 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. The neighborhood is a mixture of many different style houses and many of them have added additions over the years. Many of the properties have smaller than the required 30' side yard and this house is in keeping with the character of 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 lot area, lot width, 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. The neighborhood is a mixture of many different style houses and many of them have added additions over the years. Many of the properties have smaller than the required 30' side yard and this house is in keeping with the character of 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.

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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 lot area, lot width, 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.


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

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: February 3, 2016

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

TOWN OF ORANGETOWN  
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TOWN CLERKS OFFICE

DECISION

**§ 3.11, COLUMN 5 #6 (B) (1) SIGN PROJECTION VARIANCE APPROVED AS MODIFIED**

To: Maureen Cunningham  
160 Edgewood Drive  
Orangeburg, New York

ZBA #16-08  
Date: February 3, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-08: Application of Maureen's Hair Studio for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 3.11, Column 5, #6 (b)(1) (sign projection: 12" permitted, 56" proposed) for a hanging sign at an existing business. The business is located at 646 Main Street, Sparkill, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 4, Lot 21; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 3, 2016 at which time the Board made the determination hereinafter set forth.

Maureen Cunningham and Robin Foley, Foley Signs, appeared and testified.

The following documents were presented:

1. Two computer generated pictures of the building and the proposed signs.
2. A color picture of the proposed sign hanging from the existing bracket.
3. A letter dated January 22, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated February 3, 2016 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

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)(7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Mr. Quinn were absent.

Maureen Cunningham testified that she needs the perpendicular sign because people driving by the building cannot see the sign on the building; that the pole exists and previous businesses have had signs on it; that the sign will be fourteen feet high and looks smaller when it is placed up that high and she would reduce the size by four inches if the Board wants her to and that will change the protrusion to 52" from the building.

Robin Foley, Foley Sign Company, testified that the existing bracket projects 96" out from the building over the sidewalk and is 14' from the ground; that they proposed the 54" sign so that it would look proportioned to the existing bracket but they could reduce it to 50" and it would project 54" from the building.

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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. 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 §3.11, Column5, Item #6(b)(1) sign projection variance, as modified to a 54" projection, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The 50" hanging sign will afford passing vehicles time to identify the location of the business easily without distracting them from traffic.
2. The requested §3.11, Column5, Item #6(b)(1) sign projection variance as modified, to a 54" projection, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The 50" hanging sign will afford passing vehicles to identify the location of the business easily without distracting them from traffic.
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.
4. The requested §3.11, Column5, Item #6(b)(1) sign projection variance, as modified to a 54" projection, 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 50" hanging sign will afford passing vehicles to identify the location of the business easily without distracting them from traffic.
5. The applicant purchased or leased 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 CLERKS

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested §3.11, Column 5, Item #6(b)(1) sign projection (as modified to 54" projection for a 50" sign) 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 §3.11, Column 5, Item #6 (b) (1) sign projection (as modified to a 54" projection for a 50" sign) variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Quinn and Mr. Bosco were absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: February 3, 2016

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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TOWN OF ORANGETOWN