

MINUTES
ZONING BOARD OF APPEALS
MARCH 20, 2013

MEMBERS PRESENT:

DANIEL SULLIVAN
JOAN SALOMON
NANETTE ALBANESE
LEONARD FEROLDI, ALTERNATE

ABSENT:

PATRICIA CASTELLI
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

NEW ITEM:

TAPPAN GOLF RANGE
SIGNAGE & LOCATION
74.19 / 1 / 1; LI zone

SIGNAGE APPROVED
AS MODIFIED

ZBA#13-20

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 8:00 P.M.

Dated: March 20, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

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

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TOWN OF ORANGETOWN

DECISION
SIGN SIZE APPROVED; SIGN LOCATION APPROVED AS MODIFIED

To: Donald Brenner (Tappan Golf)
4 Independence Avenue
Tappan, New York 10983

ZBA # 13-20
Date: March 20, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-20: Application of Tappan Golf Range for variances from Chapter 43 (Zoning) Town of Orangetown, Section 3.11, LI District, Column 5, # 7 (60 sq. ft. sign permitted, 139.2 sq. ft. existing & proposed), and from Column 5 #8 (30' setback from front lot line required, 0', 3.6' and 4.3' existing) for three existing signs. The business is located at 116-118 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.19, Block 1, Lot 1; LI zoning district.

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

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plan dated 11/14/2012 signed and sealed by William Youngblood, L.S. with location of signs.
2. Sign setback table prepared by William Youngblood, L.S..
3. A letter dated February 22, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, Commissioner of Planning.
4. A letter dated March 5, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
5. A letter dated March 13, 2013 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. 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; and Mr. Feroldi, aye. Ms. Castelli and Mr. Bosco were absent.

Donald Brenner, Attorney, testified that these signs have existed for years; that the golf range was built in 1990 and his client purchased it in 2001; that sign B does not interfere with the letter from the County; that signs A & C are really traffic signs; that they show the location for people traveling along at higher speeds along Route 303; that those two signs could be moved back; that the lot is extremely large, 24 acres of land; that it could be carved up into two acre lots and that would allow for more signage; that there is a driving range, batting range, miniature golf, a track and a refreshment area; that the signs are not large for the amount of property that they serve; and that sign B is 15.8' high.

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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 sign size and sign setback variances, as modified by moving signs A & C back to 10' setback, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' lot is extremely large (24 acres, in a 2 acre zone) and the amount of signage is not excessive for such a large lot. Signs A & C have been moved to accommodate a 10' setback and will still serve as directional signs, which the Board felt served a purpose on Route 303 which has a 40 mile per hour speed limit in this location.
2. The requested sign size and sign setback variances as modified, by moving signs A & C back to 10' setback, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' lot is extremely large (24 acres, in a 2 acre zone) and the amount of signage is not excessive for such a large lot. Signs A & C have been moved to accommodate a 10' setback and will still serve as directional signs, which the Board felt served a purpose on Route 303 which has a 40 mile per hour speed limit 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 variances.
4. The requested sign size and sign setback variances, as modified, 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. Route 303 in this area has a speed limit of 40 miles per hour and the size and the location of the signs are necessary for motorists to find the site without causing traffic problems on the State road.
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 size and location variances are APPROVED with the SPECIFIC CONDITION that sign A and Sign C be moved back further from Route 303 to a 10' setback; 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 size and location variances (as modified by moving signs A & B back further from Route 303 to a 10' setback) and to override the County of Rockland Department of Planning letter dated February 22, 2013 was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Albanese, aye; and Ms. Salomon, aye. Ms. Castelli 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: March 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.O.

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

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