

MINUTES
ZONING BOARD OF APPEALS
OCTOBER 23, 2013

MEMBERS PRESENT: DANIEL SULLIVAN
JOAN SALOMON
NANETTE ALBANESE
PATRICIA CASTELLI
LEONARD FEROLDI, ALTERNATE

ABSENT: 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 ITEMS:

SQUITIERI 74.09 / 1 / 37; RG zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED	ZBA#13-77
RESIDENCE INN SIGN 74.15 / 1 / 21; LI zone	§ 3.11, COLUMN 5 #7 & #8 APPROVED	ZBA#13-78

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 8:30 P.M.

Dated: October 23, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By



Deborah Arbolino
Administrative Aide

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

TOWN CLERKS OFFICE
2013 NOV 13 PM 2 12
TOWN OF ORANGETOWN

DECISION

SECTION 3.11, COLUMNS 5 #7 AND #8 APPROVED

To: Geraldine Tortorella (Residence Inn)
One North Broadway Suite 701
White Plains, new York 10601

ZBA # 13-78
Date: October 23, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-78: Application of Residence Inn for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.11, Columns 5 #7 (Sign Area: 60 sq. ft. permitted, 30 sq. ft. illumination permitted, 121.2 sq. ft. illuminated proposed) and #8 (b): (Maximum height: 30' permitted, 40'6" proposed) for signs at the new Residence Inn. The property is located at 170 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, October 23, 2013 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Attorney, appeared and testified.

The following documents were presented:

1. Site plan by Leonard Jackson Associates, last revised August 30, 2013.
2. Site plan prepared by Philadelphia Sign Co., dated July 25, 2012.
3. ACABOR Decision 312-20 dated May 3, 2012.
4. Pictures from Hilton Garden Inn, Hampton Inn and Comfort Inn, Nanuet.
5. A letter dated October 9, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, Commissioner of Planning.
6. A letter dated October 8, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Geraldine Tortorella, Attorney for the applicant testified that the signs were reviewed by ACABOR and accepted for the design; that they are before this Board for the size, height and illumination; that the building that the signs are for is places far back on the lot in the corner; that the building sign, which is 43.4 sq. ft. will be 646 lineal feet from Route 303; that the other two signs are directional signs with the hotel name on them; that these signs will be approximately 616 lineal feet from Route 303; that they serve the purposed of directing customers to the hotel and to the proper parking area to check-in; that all three signs are illuminated; that the wall mount sign also needs a height variance because it will be places 40'6" from ground level on the central portion of the building; that there will not be any signs on the other sides of the building; and that the hotel is proposing less than half of the signage that was approved for the new Stop & Shop.

TOWN CLERKS OFFICE
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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 Section 3.11, Column 5 #7 (Sign Area: 60 sq. ft. permitted, 30 sq. ft. illumination permitted, 121.2 sq. ft. illuminated proposed) and #8 (b): (Maximum height: 30' permitted, 40'6" proposed) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The building and directional signs proposed for the new Residence Inn shall be placed between 616 and 646 lineal feet from Route 303. The proposed signs are not facing the Palisades Interstate Parkway or the residential neighborhood beyond the railroad.
2. The requested Section 3.11, Column 5 #7 (Sign Area: 60 sq. ft. permitted, 30 sq. ft. illumination permitted, 121.2 sq. ft. illuminated proposed) and #8 (b): (Maximum height: 30' permitted, 40'6" proposed) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The building and directional signs proposed for the new Residence Inn shall be placed between 616 and 646 lineal feet from Route 303. The proposed signs are not facing the Palisades Interstate Parkway or the residential neighborhood beyond the railroad
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 Section 3.11, Column 5 #7 (Sign Area: 60 sq. ft. permitted, 30 sq. ft. illumination permitted, 121.2 sq. ft. illuminated proposed) and #8 (b): (Maximum height: 30' permitted, 40'6" proposed) 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, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Section 3.11, Column 5 #7 (Sign Area: 60 sq. ft. permitted, 30 sq. ft. illumination permitted, 121.2 sq. ft. illuminated proposed) and #8 (b): (Maximum height: 30' permitted, 40'6" proposed) 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

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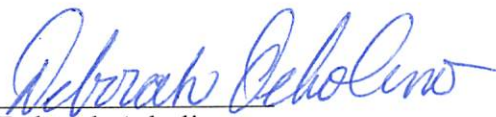
Residence Inn Signs
ZBA#13-78
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The foregoing resolution to approve the application for the requested sign variances was presented and moved by Mr. Sullivan, seconded by Ms. Albanese and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: October 23, 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 -RAO

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

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Ralph and Camille Squitieri
2 Edgewood Lane
Orangeburg, New York 10962

ZBA # 13-77
Date: October 23, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-77: Application of Camille and Ralph Squitieri for a variance from Chapter 43 (Zoning), of the code of the Town of Orangetown, RG District, Section 5.226 (Front Yard Fence Height: 4 ½' permitted, 6' proposed) at an existing single-family residence, The premises are located at 2 Edgewood Lane, Orangeburg, New York and identified on the Orangetown Tax Map as Section 74.09, Block 1, Lot 37; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 23, 2013 at which time the Board made the determination hereinafter set forth.

Ralph Squitieri appeared and testified.

The following documents were presented:

1. Copy of survey with the fence drawn on it.
2. Eight pictures of similar fences in the area.

Mr. Sullivan, Chair, 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), (11) and/or (12); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Ralph Squitieri testified that he purchased the house 31 years ago; that at the time of purchase there was a six-foot stockade fence in the same location as his proposed fence; that several years after purchasing the house he replaced the stockade fence with a chain link fence that headed the vinyl strips to for privacy; that the chain link fence needs to be replaced because it was damaged in the last hurricane; that he hired a fence company to install a new white PVC fence and they told him that he would need a permit because the fence is in front yard; that he doesn't really understand the change because he is replacing an existing fence but that is how he ended up before the Board; that the fence would be six foot high and run 54 feet along the back side of the property; that he would like to keep the six foot high to deter kids from jumping the fence to enter his in-ground pool; and that the fence is set back off the road approximately 9 feet because there is grass, a side walk and more grass.

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Public Comment:

Mariana Codispotio, 8 Edgewood Drive, testified that she had no problem with the fence along the street and asked if the fence along her property was being replaced.

Danielle Fairclough, 130 Edgewood Drive, testified that she has been in her house since 1985 and the fence has existed all that time, without incident or problems; that she has never had a problem turning the corner and she is here to support her neighbor in the replacement of the fence.

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 six-foot fence in a front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant is replacing a six-foot fence that has been installed on the property for the last 31 years. The fence does not block any sight distances for traffic and is set back from the street at least 9 feet.
2. The requested six-foot fence in a front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant is replacing a six-foot fence that has been installed on the property for the last 31 years. The fence does not block any sight distances for traffic and is set back from the street at least 9 feet.
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 six-foot fence in a front yard variance, although somewhat substantial, affords benefits to the applicant that is 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 CLERK'S OFFICE
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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 six-foot fence in front yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

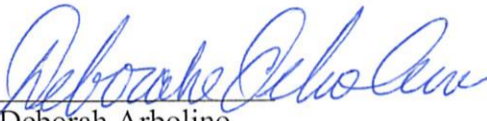
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The foregoing resolution to approve the application for the requested six-foot front yard fence variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: October 23, 2013

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
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TOWN CLERK
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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