

MINUTES
ZONING BOARD OF APPEALS
OCTOBER 15, 2014

MEMBERS PRESENT: PATRICIA CASTELLI
 JOAN SALOMON
 DAN SULLIVAN
 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

NEW ITEMS:

GALASSO
70.13 / 3 / 36; R-15 zone

SIDE YARD VARIANCE ZBA#14-73
APPROVED

ALLSTATE SIGN
77.07 / 1 / 3; R-15 zone

SIGN AREA VARIANCE ZBA#14-74
APPROVED AS MODIFIED
SIGN SETBACK VARIANCE APPROVED

O'SULLIVAN
65.17 / 1 / 8; R-40 zone

SIDE YARD AND TOTAL ZBA#14-75
SIDE YARD VARIANCES APPROVED

LISNABOY LLC
68.20 / 1 / 6; CS zone

SIGN AREA VARIANCE ZBA#14-76
APPROVED

CONTINUED ITEM:

VESEY
69.18 / 3 / 11; R-15 zone

POSTPONED ZBA#14-69

ORANGETOWN
SHOPPING CENTER
74.10 / 1 / 67; CS zone

FRONT YARD, SIGN AREA, ZBA#14-68
OFF-STREET PARKING, AND SECTION 4.23 c
& 4.24 VARIANCES APPROVED

TOWN OF ORANGETOWN
2014 NOV 6 PM 1 40
TOWN CLERKS OFFICE

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairman, Patricia Castelli, executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: 23 Rockland Park Road, Conditional Use Permit, 23 Rockland Park Road, Tappan, NY 77.16 / 1 / 32; LIO zone; and 50 Ramland Road, Wireless Edge Towers, 50 Ramland Road, Orangeburg, New York 73.20 / 1 / 30; LIO zone;, and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:45 P.M.

Dated: October 15, 2014

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 OF ORANGETOWN
2014 NOV 6 PM 1 40
TOWN CLERKS OFFICE

DECISION

SIDE YARD VARIANCE APPROVED

To: Anthony and Henrietta Galasso
4 Ashwood Drive
Blauvelt, New York 10913

ZBA # 14-73
Date: October 15, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-73: Application of Anthony and Henrietta Galasso for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 17.07' proposed) to extend a sunporch and enclose basement stairs at an existing single-family residence. The premises are located at 4 Ashwood Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.13, Block 3, Lot 36; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 15, 2014 at which time the Board made the determination hereinafter set forth.

Henrietta Galasso and Toni Farr, appeared and testified.

The following documents were presented:

1. Site plan.
2. Hand drawing of the proposed sunroom expansion.

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), (12), and /or (13); 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. Quinn and Mr. Bosco were absent.

Henrietta Galasso testified that she would like to extend her sunporch to make it all one level because her husband is in a wheel chair and it would make the porch more accessible; that she also wants to put a roof over the existing basement steps because they are dangerous in bad weather and it would stop water from getting into the basement.; that they have owned the house for twenty four years and she has two shed in the rear yard.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
2014 NOV 6 PM 1 40
TOWN CLERKS OFFICE

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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The roof over the existing basement steps are beneficial for safety and storm- water concerns and the encroachment into the side yard is minimal.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The roof over the existing basement steps are beneficial for safety and storm-water concerns and the encroachment into the side yard is minimal.
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 side yard variance, 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 roof over the existing basement steps are beneficial for safety and storm- water concerns and the encroachment into the side yard is minimal.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE
2014 NOV 6 PM 1 40
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side 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.


TOWN CLERKS OFFICE
2014 NOV 8 PM 1 41
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, 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: October 15, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -M.M.

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

TOWN OF ORANGETOWN
2014 NOV 6 PM 1 41
TOWN CLERKS OFFICE

DECISION

**SIGN AREA VARIANCE APPROVED AS MODIFIED TO 21 SQUARE FEET;
SIGN SETBACK VARIANCE APPROVED AT 10'**

To: Timothy Fay (Allstate sign)
100 Route 303
Tappan, New York 10983

ZBA # 14-74
Date: October 15, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-74: Application of Timothy Fay for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, Column 5 #12 (Sign Area limited to 20 sq. ft.; 39 sq. ft. proposed) and the setback from intersection must be 35' and 10' is proposed; for an Allstate sign at an existing mixed used building.. The premises are located at 100 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.07, Block 1, Lot 3; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 15, 2014 at which time the Board made the determination hereinafter set forth.

Timothy Fay appeared and testified.

The following documents were presented:

1. Site plan.
2. Sign Plan revised for the Zoning Board.
3. A letter dated October 15, 2014 from the Rockland County Highway Department signed by Sonny Lin, P.E..
4. A letter dated October 15, 2014 from the New York State Department of Transportation signed by Joseph Taylor, Permit Engineer.
5. A letter from Claire Sheridan, 242 Kings Highway.

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) (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. Quinn and Mr. Bosco were absent.

Timothy Fay testified that he has revised the sign to meet the Historic Areas Board of Review concerns; that he purchased the business and wants to stay in this location for the next 30 years and would like to be a good neighbor; that he has reduced the size of the signs to 18 sq. ft. for the standing sign and 3 square feet for the sign on the building with hours of operation and services offered; that he has already hired two local residents and hopes to be hiring two more people next year; and that he cannot meet the thirty- five foot setback from the street because the house is set back less than thirty five feet.

Public Comment:

No public comment.

TOWN CLERKS OFFICE
2014 NOV 6 PM 1 41
TOWN OF ORANGETOWN

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 sign area variance as modified down to 21 sq. ft. and the sign setback of 10' variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed sign as modified will be large enough to identify the business without interfering with the flow of traffic.
2. The requested sign area variance as modified down to 21 sq. ft. and the sign setback of 10' variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed sign as modified will be large enough to identify the business without interfering with the flow of traffic.
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 area variance as modified down to 21 sq. ft. and the sign setback of 10' variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2014 NOV 6 PM 1 41
TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested sign area variance as modified down to 21 sq. ft. and the sign setback of 10' variance 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
2014 NOV 6 PM 1 14
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested sign area variance as modified down to 21 sq. ft. and the sign setback of 10' variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye ; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Mr. Bosco and Mr. Quinn 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: October 15, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –B.vW.

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

TOWN OF ORANGETOWN
2014 NOV 6 PM 1 41
TOWN CLERKS OFFICE

DECISION

LOT WIDTH, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Jane Slavin (O' Sullivan)
200 Erie Street East
Suite 1E
Blauvelt, New York 10901

ZBA # 14-75
Date: October 15, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-75: Application of James O'Sullivan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-40 District, Group E, Columns 6 (Lot Width: 150' required, 110' existing), 9 (Side yard: 20' required, 18.3' existing & proposed) and 10 (Total Side yard: 80' required, 47.3' proposed) for an addition to an existing single-family residence. The premises are located at 865 Western Highway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.17, Block 1, Lot 8; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 15, 2014 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, and James O'Sullivan appeared and testified.

The following documents were presented:

1. Site plan dated 5/21/2014 signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 5/20/ 2014 with the latest revision date of 9/5/2014 signed and sealed by Jane Slavin, Architect.
3. Three pictures of the existing house.
4. A letter dated October 15, 2014 from the County of Rockland Department of highways signed by Sonny Lin, P.E..

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), (12) and/or (13); 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. Quinn and Mr. Bosco were absent.

Jane Slavin, Architect, testified that this is an existing single-family residence; that they are proposing to expand the first floor from front to back; and build a new second floor; that they designed the addition to meet the setbacks for an undersized lot; that they thought they would qualify under Section 5.21 because the lot is only 80' wide but they were told they do not qualify because the lot is too large; that they had set the second floor in to meet the side yard and total side yard of the undersized lot but that does not apply; that the lot is 83,000 square feet and cannot be subdivided because of its deficient width; and that they are doing an addition to a single-family residence and using the building as a single-family residence.

James O'Sullivan testified that he purchased the lot in 2003; that it has been vacant for the last year and that he wants to improve it because he has three daughters and they may live there.

TOWN OF ORANGETOWN
2014 NOV 6 PM 1:41
TOWN CLERK'S OFFICE

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 lot width, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition is in keeping with the character of the neighborhood.
2. The requested lot width, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is large but oddly shaped and the second floor addition is stepped back to give the illusion of a wider lot.
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 width, side yard and total side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2014 NOV 6 PM 1:41
TOWN CLERKS OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE
JUL 1 6 PM '14
TOWN OF ORANGETOWN


O'Sullivan
ZBA#14-75
Page 4 of 4

The foregoing resolution to approve the application for the requested lot width, side yard and total side yard variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, 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: October 15, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -R.A.O.

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

TOWN OF ORANGETOWN
2014 NOV 6 PM 1 41
TOWN CLERKS OFFICE

DECISION

SIGN AREA VARIANCE APPROVED

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

ZBA # 14-76
Date: October 15, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-76: Application of Lisnaboy LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, Column 5 #6a (Sign Area: 40 sq. ft. permitted. 82.78 sq. ft. proposed) for a building sign. The premises are located at 36-38 Main Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 6; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 15, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Sara Torrens, Attorney and Cornelius O'Sullivan appeared and testified.

The following documents were presented:

1. Survey dated February 17, 2004 with the latest revision date of March 2, 2004 signed and sealed by Robert R. Rahnefeld, P.L.S..
2. A picture of the proposed sign with measurements.
3. A letter dated October 15, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A computer generated color picture of the proposed sign on the building.

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) (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. Quinn and Mr. Bosco were absent.

Donald Brenner testified that Cornelius O'Sullivan has owned the building for many years; that he has an accounting office in the building; that the building is divided up into suites for law offices, accounting, appraisals and electrical services; that he sign is very attractive and in keeping with the character of the neighborhood; and that it is large enough to identify the businesses within the building.

TOWN CLERKS OFFICE
OCT 15 2014 6 PM
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. 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 sign area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The sign size and design is in keeping with the character of the neighborhood.
2. The requested sign area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The sign size and design 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 sign area variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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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 sign area 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.

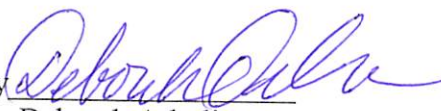
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The foregoing resolution to approve the application for the requested sign area variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: October 15, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -M.M.

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

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DECISION
**FRONT YARD, SIGN AREA; OFF-STREET PARKING, FREESTANDING SIGN
SETBACK AND SECTION 4.24 VARIANCES APPROVED**

To: John Cannon (Orangetown Shopping Center)
321 Railroad Avenue
Greenwich, Connecticut 06830

ZBA # 14-64
Date: September 3, 2014
October 15, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-64: Application of Orangetown Shopping Center Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, CS District, Group FF, Column 8 (Front Yard: 45' or 0' required, 14' 6" proposed), 12 (Building Height: 22' permitted, 25' proposed); from Section 3.11, Column 2 (uses permitted by right: fast food restaurant not permitted); Column 5 #6a (Maximum sign area: 1,520 sq. ft. permitted; 1,628 sq. ft. proposed), and Column 6 #4, #5 & #8 (Off-street parking: 500 spaces required, 347 spaces proposed); from Section 4.23 c (Freestanding sign setback: 75' required, 7'6" proposed); Section 4.24 (Any sign over 2 sq. ft. within 500' of the Palisades Parkway must have permission from the Palisades Interstate park Commission) and from Section 8.13A (No fast food restaurant shall be located within 300' of any lot line of a school; 114'4" existing to South Orangetown CSD). The site is located on the south side of Orangeburg Road, abutting Oak Street and Dutch Hill Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 67; CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, September 3, 2014 and October 15, 2014 at which time the Board made the determination hereinafter set forth.

Stephen Honan, Attorney, Bernard Adler, P.E., Transportation Planning & 'Traffic Engineering, Douglas Rich, Landscape Architect, and Paul Tepfer, Architect, NDA, Architects, appeared and testified.

The following documents were presented:

1. Site plan labeled "Orangetown Shopping Center" dated 12/07/2011 with the latest revision date of 02/24/2012 signed and sealed by Jack Shoemaker, LLS.
2. Plans dated August 1, 2014 with the latest revision date of 04/25/2014 labeled "Overall Layout Plan" signed and sealed by James E. Quill, P.E. (4 pages).
3. Orangetown Shopping Center Pylon Structural Details dated 11/02/2013 with the latest revision date of 01/24/2014 by JC Awning Sign Design.(3 pages).
4. A cover letter dated July 30, 2014 from Stephen M. Honan, Ferrick Lynch Mac Cartney, Attorneys at Law.
5. Parking Analyses dated July 23, 2014 from Adler Consulting.
6. Planning board Decision #14-26 dated June 25, 2014.
7. A letter dated August 6, 2014 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
8. A letter dated August 13, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
9. A letter dated September 3, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

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

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On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board conducted a SEQRA review and, on June 25, 2014, rendered an environmental determination of **no** significant adverse environmental impacts to result from the proposed land use action (i.e., a "Negative Declaration" or Neg. Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations §617.5 (b) (3); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Sullivan, aye.

Stephen Honan, Attorney, testified that his client purchased the shopping center two years ago; that they have been making improvements on the center since; that they have been before the Planning Board for the new entry; that they are making changes to the interior plaza; that they would like to see what the Board thinks about a fast food use in the proposed new space; that they are not prepared to make a case for the use variance presently but wanted to know how the Board felt about such use before they go further with preparation; that the area variances are a separate issue from the use variance; that the building is going to be built with a drive-thru even if it is not used for a fast food restaurant; that it may be a bank; that the entry/exit on Oak Street is going to be eliminated; that the use would bring jobs for the youth in the area; that it would bring construction jobs and support the tax base; that they are not prepared to go forward with the use case but will go forward for the area variances or ask for a continuance until the October 1, 2014 meeting.

Dan Sullivan, stated that as one Board member he would like to review the whole hog at one time; that he is an accountant and cannot see how the applicant would be able to produce a case for a use variance that the applicant cannot realize a return for his money without a fast food restaurant in the shopping center.

Patricia Castelli stated that she has a hard time entertaining the application for area variances without considering the use at the same time and a case for a use variance is not being presented.

Joan Salomon stated that this application is like putting the cart before the horse; and that she agrees with Patricia Castelli.

Tom Quinn stated that the CS District does not allow for fast food; that the space could be used for other retail use; that he is not against fast food but this is not the space for it.

Public Comment:

Walter Stemouchow, 7 Oak Street, Orangeburg, New York, testified that he lives and works here; that no fast food should be built so close to a school; that the traffic would increase; that it would cause odors and riffraff and he is against it.

Noelia Lopez, 9 Oak Street, testified that she lives right on the corner of Oak Street and the driveway; that there are enough restaurants in the shopping center; that garbage is already dumped on the road; that a fast food restaurant across the street from the High School and two colleges is a bad idea and the road is too busy.

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Rinaldo Lopez, 9 Oak Street, Orangeburg, testified that he has been a teacher for twenty five years; that a fast food establishment that close to the school is too tempting; that it is hard enough to keep kids in school; that the lure is too great and it would also be a safety concern with such a busy road; and it would bring negative smells and hours of operation.

Helen Ucker, 7 Oak Street, Orangeburg, testified that fast food does not benefit the community and suggested that safety concerns and traffic be considered and that the applicant should consider using the proposed area for a community garden with fountains to attract people to enjoy nature; that this would be pleasurable for the community.

October 15, 2014

ZBA#14-64: Application of Orangetown Shopping Center Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, CS District, Group FF, Column 8 (Front Yard: 45' or 0' required, 14' 6" proposed); Column 5 #6a (Maximum sign area: 1,520 sq. ft. permitted; 1,628 sq. ft. proposed), and Column 6 #4, #5 & #8 (Off-street parking: 500 spaces required, 347 spaces proposed); from Section 4.23 c (Freestanding sign setback: 75' required, 7'6" proposed); Section 4.24 (Any sign over 2 sq. ft. within 500' of the Palisades Parkway must have permission from the Palisades Interstate park Commission). The site is located on the south side of Orangeburg Road, abutting Oak Street and Dutch Hill Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 67; CS zoning district.

The request for a fast food restaurant was withdrawn and the building height variance was not necessary.

Members present:

Daniel Sullivan
Patricia Castelli
Joan Salomon
Leonard Feroldi

Stephan Honan, Attorney, Douglas Rich, Engineer, Paul Tepfer, Architect, and Michael O'Rourke, Traffic Engineer appeared.

Stephan Honan, Attorney, testified that they last appeared at the September 3, 2014 Zoning Board meeting and they have withdrawn the request for a fast food restaurant; that they have gotten clarification for the height variance and they do not need a height variance; that the free standing sign need a variance for setback but is under the permitted square footage of lettering; that the town code allows 300 sq. ft. and they are proposing 291 sq. ft.; that the measurement on the referral must be referring to the total signage of the shopping center; that they are still asking for the most intense parking calculations for the new building; that they presently have 340 parking spaces and they will have 374 spaces when all the improvements are done; that the requested restaurant use for the new building is the most intense use for parking and they would like to stay with that request; that if they cannot get a tenant for the space as a restaurant they may rent it out to a bank; and that the topography of the lot is dictating the placement of the new pylon sign to a degree, because they cannot afford for it to be clocked by the new proposed building.

There was a long discussion with the traffic engineers and the Board on the new flow of traffic under the new proposed plan.

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Public comment:

Walter Stremouchow, 7 Oak Street, thanked the applicant for listening to the concerns of the neighborhood and not proceeding with a fast food restaurant; that economically the shopping center is viable and there is no need to make it a commercial hub.

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 front yard, sign area, off-street parking, freestanding sign setback, and Section 4.24 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed improvements to the existing shopping center are beneficial to the surrounding area. The withdrawal of the request for a fast food restaurant, and the proposed improvements to the entrance and the traffic flow will improve safety for the shopping center.
2. The requested front yard, sign area, off-street parking, freestanding sign setback, and Section 4.24 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed improvements to the existing shopping center are beneficial to the surrounding area. The withdrawal of the request for a fast food restaurant, and the proposed improvements to the entrance and the traffic flow will improve safety for the shopping center.
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 front yard, sign area, off-street parking, freestanding sign setback, and Section 4.24 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 proposed improvements to the existing shopping center are beneficial to the surrounding area. The withdrawal of the request for a fast food restaurant, and the proposed improvements to the entrance and the traffic flow will improve safety for the shopping center.

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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 front yard, sign area, off street parking, freestanding sign setback and Section 4.24 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 front yard, sign area, off-street parking, freestanding sign setback and Section 4.24 variances was presented and moved by Mr. Sullivan, seconded by Mr. Feroldi and carried as follows: Ms. Castelli, aye; Mr. Feroldi, 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: October 15, 2014

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
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FILE, ZBA, PB
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