

MINUTES
ZONING BOARD OF APPEALS
OCTOBER 1, 2014

MEMBERS PRESENT: PATRICIA CASTELLI
JOAN SALOMON
THOMAS QUINN
LEONARD FEROLDI, ALTERNATE
MICHAEL BOSCO

ABSENT: DAN SULLIVAN

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Elizabeth Decort, Clerk Typist

This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting 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:

ORANGETOWN
SHOPPING CENTER
74.10 / 1 / 67; CS zone

POSTPONED
TO OCTOBER 15, 2014

ZBA#14-65

NEW ITEMS:

DEL PONTE
77.11 / 2 / 42; R-15 zone

FLOOR AREA RATIO AND
BUILDING HEIGHT VARIANCES
APPROVED WITH CONDITION

ZBA#14-70

GRACE TABERNACLE
CHURCH
77.08 / 5 / 41; CS zone

FRONT YARD VARIANCE
APPROVED

ZBA#14-72

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

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: Walgreens Subdivision Plan, 81 Route 303, Tappan, N.Y. 77.15 / 1 / 24&25; CS & CO zoning districts, 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 9:00 P.M.

Dated: October 1, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Elizabeth M Decort*
Elizabeth Decort
Clerk-Typist

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

TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

DECISION

FLOOR AREA RATIO AND BUILDING HEIGHT VARIANCES APPROVED WITH CONDITIONS

To: Richard and Linda DelPonte
1 Paul Court
Tappan, New York 10983

ZBA # 14-70
Date: October 1, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-70: Application of Richard and Linda DelPonte for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, (Average Density Applies: RG requirements), Columns 4 (Floor Area Ratio: .30 permitted, .33 proposed) and 12 (Building Height: 15' 2 3/8" permitted, 22' proposed) for an addition to an existing single family residence. The premises are located at 1 Paul Court, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 42; 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 1, 2014 at which time the Board made the determination hereinafter set forth.

Richard DelPonte, homeowner, appeared and testified.

The following documents were presented:

1. Site plan.
2. Architectural plans dated March 28, 2014 by Hess Architects.
3. Rockland County Department of Planning letter dated September 16, 2014.
4. Rockland County Department of Highways letter dated September 30, 2014.
5. County of Rockland Sewer District No. 1 Letter dated September 4, 2014.
6. Rockland County Department of Environmental Health letter dated August 25, 2014.

Ms. Castelli 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, Ms. Castelli 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 Mr. Quinn and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Ms. Salomon, aye. Mr. Sullivan was absent and Mr. Bosco abstained.

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Mr. DelPonte testified that the project involved an addition above the existing garage and that the existing structure would remain the same. He stated that his mother-in-law will be coming to live with his family. Mr. DelPonte specified that he already has a family of four and that the addition would provide much needed space for his children, including a recreational room and an additional bathroom. Mr. DelPonte stated that because the home does not have a basement; the addition above the garage is necessary. He confirmed the addition would not increase the height of the house rather; it will match the existing height of the roof. He also clarified that the houses in his development are two different heights and although there are not many similar additions in the neighborhood, the addition would not change the character of the neighborhood.

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.

Ms. Castelli 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 floor area ratio and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested floor area ratio and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 floor area ratio 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.

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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 floor area ratio and building height variances are Approved with the condition of Applicant's compliance with the comments submitted by Rockland County Planning Department letter dated September 16, 2014; 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.

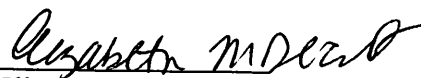
TOWN CLERKS OFFICE
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The foregoing resolution to approve the application for the requested floor area ratio and building height variances, with the condition of the applicant's compliance with the comments submitted by the Rockland County Planning Department letter dated September 16, 2014 was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ; Mr. Sullivan was absent and Mr. Bosco abstained.

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 1, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Elizabeth Decort
Clerk-Typist

DISTRIBUTION:

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

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

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DECISION

FRONT YARD VARIANCE APPROVED

To: John Atzl (Grace Tabernacle)
234 No. Main Street
New City, New York 10956

ZBA # 14-72
Date: October 1, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-72: Application of Grace Tabernacle for variances from Chapter 43 (Zoning) of the Code of Town of Orangetown, CS District, Group FF, Columns 8 (Front Yard: 0'/12' required, 9.9' existing, 5' proposed) for an extension to an existing building. The premises are located at 617 Main Street, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 41; CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 1, 2014 at which time the Board made the determination hereinafter set forth.

John Atzl, Land Surveyor and John Mathew, President, appeared and testified.

The following documents were presented:

1. Site plan dated 01/29/2014 with the latest revision date of 08/26/2014 signed and sealed by John R. Atzl, Licensed Surveyor. (1 page)
2. Architectural plans dated 09/03/2014 from Todd Phillippi Architect.

Ms. Castelli, made a motion to open the Public Hearing which motion was seconded by Mr. Quinn and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 §6.17.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye; Mr. Feroldi, aye. Mr. Sullivan was absent and Mr. Bosco abstained.

John Atzl, Land Surveyor, testified that they were before the board in May of this year; at which time they were approved for front and side yard variances. Mr. Atzl explained that during the first appearance they were asked to dedicate a 8 ½' strip of land in the front yard to the Rockland County Highway Department. Since the time of their original appearance, the applicant came to an agreement with the Rockland County Highway Department to remove the dedication condition. Mr. Atzl stated that in order to comply with the New York State Fire Code, which states a building must have two means of egress; the applicant will have to make slight changes to the front of the building which will provide a covered entryway into the church. This stairwell will also require a change in the front yard setback. As such, Mr. Atzl explained they are before the board to ensure compliance with the regulations set forth.

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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.

Ms. Castelli 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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The building is currently being repurposed for a church and the front yard is changing to accommodate a covered area for entering the church in addition to complying with the New York State Fire Code.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 variance, although somewhat substantial, affords 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.

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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 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 front yard variance was presented and moved by Mr. Feroldi seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Mr. Sullivan 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 1, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Elizabeth M Decort
Elizabeth Decort
Clerk-Typist

DISTRIBUTION:

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

TOWN CLERK
HIGHWAY DEPARTMENT
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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