

MINUTES
ZONING BOARD OF APPEALS
November 18, 2009

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 JOAN SALOMON
 NANETTE ALBANESE
 DANIEL SULLIVAN

ABSENT: NONE

ALSO PRESENT: Robert Magrino, 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 Chairman Mr. Mowerson.

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:

INTERPRETATION/CLARIFICATION WITH RESPECT TO BLAUVELT AUTO SPA 70.10 / 3 / 16; CC zone	SECOND POSTPONMENT	ZBA#09-71
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NEW ITEMS:

TIMMINS 77.12 / 1 / 71; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#09-77
SHEPARDSON 64.18 / 1 / 38; R-15 zone	SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#09-78
CAPITAL MANAGEMENT GROUP SIGN 68.16 / 6 / 36; CS zone	SIGN SETBACK VARIANCE APPROVED AS MODIFIED	ZBA #09-79
RESTAURANT DEPOT SIGN 68.18 / 1 / 16; LI & LIO zone	§ 4.23 SIGN VARIANCE APPROVED AS MODIFIED	ZBA #09-80

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:00 P.M.

Dated: November 18, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DECISION

FRONT YARD VARIANCE APPROVED

To: Earle Timmons

ZBA # 09-77

376 Washington Street
Tappan, New York 10983

Date: 11/ 18 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-77: Application of Earle Timmons for a variance from Chapter 43., (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Column 8 (Front Yard: 30' required, 10.65' and 11.8' existing) for existing decks at an existing single-family residence. The premises are located at 376 Washington Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 71; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 18, 2009 at which time the Board made the determination hereinafter set forth.

Walter Smith, Real Estate Broker, appeared and testified.

The following documents were presented:

1. Site plan showing the existing deck.
2. A letter of explanation from Earle Timmons dated October 8, 2009.
3. A letter dated November 13, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

Mr. Mowerson 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. Mowerson 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. Sullivan and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Walter Smith, Real Estate Broker, testified that Mr. Timmons purchased his house in 1985; that in 1987 he replaced his front steps with a new deck and larger steps; that he did this work without a permit; that he is listing his house for sale and I am his agent; that he needs a certificate of occupancy for the structure in order to sell the house; that the structure has been certified for the construction but he needs the variance; and that

nothing new is being constructed now.

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. Mowerson 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 deck has existed since 1987 and its existence has not had a negative effect on the neighborhood.
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. The deck has existed since 1987 and its existence has not had a negative effect on 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 a variance.
4. The requested front yard variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
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.

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

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: November 18, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Steve and Mary Shepardson

ZBA # 09-78

12 Venter Lane

Date: 11/ 18 / 09

Nanuet, New York 10954

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-78: Application of Steve and Mary Shepardson for variances from Chapter 43, (Zoning) of the Code of the Town of Orangetown Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 5' 6" proposed) and from Section 5.227 (Rear Yard: 20' required, 15' 7" proposed) for the installation of an in-ground pool at an existing single-family residence. The premises is located at 12 Venter Lane, Nanuet, New York,

and are identified on the Orangetown Tax Map as Section 64.18, Block 1, Lot 38; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 18, 2009 at which time the Board made the determination hereinafter set forth.

Steve and Mary Shepardson and Mike Insignares, Cool Pool Co., appeared and testified.

The following documents were presented:

1. Site plan showing the proposed pool.
2. Two letters of support from abutting property owners.

Mr. Mowerson 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. Mowerson 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. Sullivan and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Steve Shepardson testified that he and his wife purchased the house in 1998; that they would like to install an in-ground pool in the back yard eight feet from the house; that they have a corner lot and two front yards; that this location allows the best view of the pool from the house; that there is no where on the property to place the pool without needing a variance because this is a corner lot; that moving it over behind the garage places it right under the power lines for the house; that it seems dangerous to have power lines over the pool; that the garage was built two feet narrower than was approved by the board; and that the shed will be removed.

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. Mowerson 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 side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

Similar pools have been constructed in the area.

2. The requested side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Similar pools have been constructed in the area.

3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar pools have been constructed in the area.
4. The requested side yard and rear yard variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
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 side yard and rear 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.

The foregoing resolution to approve the application for the requested side yard and rear yard variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

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: November 18, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SIGN SET BACK DISTANCE VARIANCES APPROVED as MODIFIED

To: Jay Greenwell (Capital Management Group) ZBA # 09-79
86 Lafayette Avenue Date: 11/ 18 / 09
Suffern, New York 10901

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-79: Application of Capital Management Group for a variance from Chapter 43, (Zoning) of the Code of the Town of Orangetown, CS District, Section 3.11, Column 5 # b (2) (Sign Set-back : 20' required, 6' proposed) for a sign at an office building. Premises are located at 167 East Central Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 36; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 18, 2009 at which time the Board made the determination hereinafter set forth.

Kier Levesque, Architect, Daniel Delossontas, Land Surveyor appeared and testified.

The following documents were presented:

1. Site plan dated 9/9/09 signed and sealed by Jay Greenwell, L.S.
2. A picture of the proposed sign.
3. A letter dated November 10, 2009 from the County of Rockland Department of Highways signed by Sony Lin, P.E.
4. A letter dated November 16, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
5. A narrative summary from the sign plan from Jay Greenwell, L.S..

6. Five pictures of other signs in the area.

Mr. Mowerson 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. Mowerson 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 Mr. Sullivan and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Daniel Delossontas, Land Surveyor, testified that they are asking for the variance for several reasons; that the existing landscaping that they worked hard to maintain causes a problem for the placement of the sign; that large Japanese Maple and the hedges on each side of the property are dictating the placement of the sign; that if the sign was placed twenty feet from the property line it would not be seen from the street and could cause a problem for traffic; that searching for the sign could cause traffic problems; that the applicant wishes to provide signage for the site that will be visible by the traveling public; that if the sign were to be installed at the required 20' setback, it would be set back too far to be adequately visible, and we are requesting a variance that would allow the sign to be setback 6' from the property line which is actually 18' from the curbing; and that if they were to comply with the letter from Rockland County Highway they would ask for an 8' setback from the property line.

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. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested sign setback variance as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to move the sign back an additional 2' to provide an 8' setback from the property line and an 18' setback from the curb. The proposed sign location will not be obscured by the existing Japanese maple and other existing landscaping and additional landscaping around the sign will be added.
2. The requested sign setback variances as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to move the sign back an additional 2' to provide an 8' setback from the property line and an 18' setback from the curb. The proposed sign location will not be obscured by the existing Japanese maple and other existing landscaping and additional landscaping around the sign will be added.

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 setback variance as modified, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The applicant has agreed to move the sign back an additional 2' to provide an 8' setback from the property line and an 18' setback from the curb. The proposed sign location will not be obscured by the existing Japanese maple and other existing landscaping and additional landscaping around the sign will be added.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested sign setback variance is APPROVED as MODIFIED by providing a setback of 8' from the property line; 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.

The foregoing resolution to approve the application for the requested sign setback variance as modified to provide an 8’ setback from the property line was presented and moved by Ms. Salomon, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

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: November 18, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SECTION 4.23 (a) SIGN VARIANCES APPROVED AS MODIFIED

To: Donald Brenner (Restaurant Depot)

ZBA # 09-80

4 Independence Avenue

Date: 11/ 18 / 09

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-80: Application of Restaurant Depot for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, LIO & LI District, Section 4.23(a) :To each street frontage for corner lots or thru lots allowed 120 sq. ft. total as per Section 3.11, LI District, Column 5 #7 and LIO same as LO District, Section 3.11, Column 5, #11 refer to ZBA 429.5 sq. ft. proposed, and 30 sq. ft. illuminated is permitted) for one wall sign and eleven double faced signs. Premises is located at 100 Corporate Drive, (Building #8), Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 65.18, Block 1, Lot 16; LI & LIO zones.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 18, 2009 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Larry Cohen, Chief Operating Officer, Robert Macaryo, sign installer appeared and testified.

The following documents were presented:

1. Sign plans (7 pages) dated 9/17/09.
2. Site plan dated 9/17/09 by RD Blauvelt.
3. A letter dated November 16, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

Mr. Mowerson 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. Mowerson 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 Mr. Sullivan and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Donald Brenner, Attorney, testified that the plan before the Board does not conflict with the Route 303 Overlay zone; that the Restaurant Depot is a country wide company; that it is a good use for the property and will bring jobs to the area; that the Rockland County Planning Department always denies any variances requested for signage; that the proposed signage does not offend the signage requirements of the Town of Orangetown for this site; that the building is a multi-use building and many of the signs are directional; that the majority of signs will not be visible from Route 303; that the proposed signs on page 1 are on the back of the building and not visible from Route 303 because they are on the portion of the building that is below ground level on the Route 303 side; and that they will submit the revised plans for the Chairman to review

Larry Cohen, Chief Operating Officer, testified that that the entrance and exit signs can be reduced from 24' x 96' to 18' x 72 and from 24' x 48' to 18' x 42'; that the sign that states "Where Restaurants Shop" will be removed; that the second proposed pylon sign labeled P-2 on the plan will be reduced to a 4' x 4' monument sign that shall be two feet off the ground; that the proposed sign labeled D5 can be reduced to 2' x 1.6'; that the directional signs labeled D1 on the plans can be removed and they would like to keep the directional signs labeled D2.

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. Mowerson 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 signage variance as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to reduce the size of some of the proposed signs and to remove some of the proposed signs altogether, resulting in a reduction from the proposed 429.5 sq. ft to 287 sq. ft..
2. The site is unique for a site located on Route 303, the only sign that will be visible along the Route 303 corridor is a pylon sign measuring 7' x 7'; all of the other proposed signs are below the grade of Route 303.
3. The requested signage variance as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to reduce the size of some of the proposed signs

and to remove some of the proposed signs all together, resulting in a reduction from the proposed 429.5 sq. ft to 287 sq. ft..

4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested signage variance as modified, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
6. 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 signage variance is APPROVED as MODIFIED; (1) removing the proposed D1 sign, (2) reducing the proposed P2 sign to a 4' x 4' monument version 2' off the ground,(3) removing the "Where Restaurants Shop" sign from the south retaining wall,(4) reducing the D5 sign to 2' x 1.6' and (5) reducing the exit and entrance signs on the rear of the building to 18" x 42" and 72" respectively; and with the SPECIFIC CONDITION that the Chairman review the revised submission of 287 sq. ft.; 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.

Mr. Mowerson made a motion to override the letter from Rockland County Planning, which motion was seconded by Ms. Castelli and carried unanimously.

The foregoing resolution to approve the application for the requested signage variance as modified to 287 square feet was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, nay; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

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: November 18, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

