

MINUTES
ZONING BOARD OF APPEALS
September 21, 2022

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
MICHAEL BOSCO
PATRICIA CASTELLI
ROBERT BONOMOLO, JR.
THOMAS QUINN
BILLY VALENTINE

ABSENT: NONE

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney
Anne Marie Ambrose, Official Stenographer

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:

DATABANK 2000 Corporate Drive Blauvelt, New York 73.15 / 1 / 19; LIO zone	NUMBER OF PARKING SPACE VARIANCE APPROVED WITH SPECIFIC CONDITION EXTERIOR LOADING BERTH VARIANCE APPROVED	ZBA#22-56
CILIBRASI 136 Constitution Drive Orangeburg, New York 74.17 / 1 / 27; R-22 zone	FRONT YARD VARIANCE APPROVED	ZBA#22-57
ST. DOMIMICS FAMILY SERVICES 500 Western Highway Blauvelt, New York 74.06 / 3 / 1; R-40 zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD AND REAR YARD AND PARKING SPACE VARIANCES APPROVED FOR LOT 1.11 FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, BUILDING HEIGHT AND PARKING SPACE VARIANCES APPROVED FOR LOT 1.12	ZBA#22-58
MAZUREK 21 Blair Court Tappan, New York 77.15 / 3 / 11; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#22-59
GUILIO'S RESTAURANT 150-154 Washington Street Tappan, New York 77.11 / 1 / 56.1; CS zone	FRONT YARD VARIANCE VARIANCE APPROVED	ZBA#22-60

TOWN CLERK'S OFFICE
SEP 29 4 11:11 PM
TOWN OF ORANGETOWN

MC CLOSKEY
262 South Boulevard
Upper Grandview, New York
66.17 / 1 / 23; R-22 zone

ACCESSORY STRUCTURE DISTANCE ZBA#22-61
TO PRIMARY STRUCTURE VARIANCE
APPROVED

DOMOZICK
50 Kirchner Drive
Tappan, New York
77.08 / 3 / 92; R-15 zone

REAR YARD VARIANCE ZBA#22-62
APPROVED

SOUTH CORNER PLAZA
2 Route 340
Orangeburg, New York
74.11 / 2 / 47; CC zone

REAR YARD,BUILDING HEIGHT, ZBA#22-63
LOADING BERTH, AND ROUTE 303
OVERLAY VARIANCES APPROVED
WITH SPECIFIC CONDITION

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson 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 SEQR Regulations § 617.6 (b)(3) the following application: 1021 Route 9W Site Plan Critical environmental area, 1021 Route 9W, Upper Grandview, NY 71.09 / 1 / 19; R-22 zone; Tappan Fire District Site Plan-Western Highway, 300 Western Highway, Tappan, NY 74.18 / 2 / 35; R-15 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings


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 10:30 P.M.

Dated: September 21, 2022

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 CLERK'S OFFICE
2022 SEP 29 A 11:42
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**PARKING , NUMBER OF LOADING BERTHS, EXTERIOR LOADING BERTHS
AND BUFFER VARIANCES APPROVED WITH SPECIFIC CONDITION**

To: Brian Quinn
1 Blue Hill Plaza (3rd floor)
Pearl River, New York 10965

ZBA #22-56
Date: September 21, 2022
Permit #BLDC-1236--22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-56: Application of Databank Orangeburg Site Plan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Section 3.11, Column 6 (Parking: 739 spaces required, 70 proposed) Column 7 refers to LO District Column 7 #2 (Loading berths shall be within completely enclosed buildings: two (2) exterior loading berths are proposed); from Section 6.4 (minimum loading berths required is 11 and 2 are proposed) and from R-80 notes to bulk table #2 (Buffer required is 100' feet does not exist to existing building). The premises are located at 2000 Corporate Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 19, LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Brian Quinn, Attorney, Lino Sciarretta, Attorney, , Ben Diskin, P.E., and Paul Lablond, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Databank Orangeburg" dated January 27, 2022 with the latest revision date of 07/28/ 2022 not signed or sealed by Kimley Horn Engineering and Landscaping Architecture of New York PC. (22 pages).\
2. Plan labeled "Composite Overall Exterior Building Elevations dated 06/10/ 2022 by Kimley Horn not signed or sealed. (1 Page)
3. "Preliminary Basis of Design" , architectural drawings, prepared by Highland Associates, Inc. dated March 11, 2022.
4. Cover letter dated August 2, 2022 to Cheryl Coopersmith (2pages signed by Michael W. Junghans, P.E., Kimley Horn.
5. Memorandum dated July 8, 2022 from Jane Slavin. RA., Director, OBZPAE. (1 page)
6. Full environmental assessment form Part I prepared by Kimley-Horn dated April 20, 2022.
7. Letter from New York State Department of Environmental Conservation dated July 11, 2022 regarding the identified eagle's nest. (3 pages)
8. Planning Board Decision #22-36 dated July 13, 2022.
9. Site Sound Level Analysis dated April 22, 2022 signed by Joseph F. Horesco, INCE Board Certified, Acentech. (8 pages)
10. Color picture and map attachments Exhibit A-1, A-2, and B.(4 pages)
11. A letter dated September 19, 2022 from Rockland County Planning Department signed by Douglas J. Schuetz, Acting Commissioner of Planning.
12. An e-mail from Shajan Thottakara, P.E Rockland County Drainage Agency stating this project is out of their jurisdiction.
13. A letter dated September 6, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
14. A letter dated June 28, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior public Health Engineer.
15. A letter in opposition dated September 19, 2022 from O'Toole Scrivo signed by Holly Schepisi, Esq., representing the Old Tappan neighbors.(3 pages)
16. An e-mail dated September 19, 2022 from Leslie Whatley, 6 Buckingham Court, Old Tappan, NJ in opposition. (4 pages with attachments)

17. An e-mail dated September 19, 2022 from David B. Rosen , 10 Buckingham Place Old Tappan.
18. Sign off from Rockland County Highway Department dated 08/18/2022 by Dyan Rajasingham, stating the project is not in their jurisdiction.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on July 13, 2022 (PB# 22-36) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "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 § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

Brian Quinn testified that they appeared before the Planning Board on July 13, 2022 and received a preliminary approval and a Neg. Dec. for SEQRA; that the applicant was issued a demolition permit and there are no violations on the property; that the letters that were read into the record from neighbors in New Jersey that state that they did not receive proper notice, should be made aware that they have no standing; that the application was properly noticed and by law the New Jersey residents do not have standing; that the building is already demolished and they are working on recycling parts of the building; that the variances being requested are similar to those that were granted for the Bloomberg building; that this Board has granted variances for outdoor loading berths for 155 Corporate Drive several times; that they were granted for Subaru Distribution Center, and earlier this month the Board granted a variance for outdoor loading berths for Asahi Refining; that they have 69 parking spaces; that John Giardiello, the previous director of the building department made the determination that a data center is permitted in the LIO zone and Jane Slavin's letter dated July 8, 2022 references that this is how Bloomberg was referred; that the back part of the property has the exact same buffer; that the westerly line abuts the reservoir; and the northern side they allowed parking in the buffer; and that they are only seeking approval for Phase I of the project; that Phase II is not be requested.

Tony Qorri, VP of Construction DataBank, testified that the data center has very few employees; that the reduced parking is still more than the will need; that they will have six data center technicians and one manager on site and there may be three or four employees on the customer side; that at max there will be fifteen employees; that after the construction is complete they estimate approximately one truck per week and minimal traffic; that the data center use has less intensity than office or warehouse; that if the building was re-purposed they would have to go back in front of the Board; that Verizon used the first of two circuits; there is a third circuit that will give 50% more power from O & R, that would be six to ten years down the road if ever; that cooling equipment for the data halls will include rooftop condensing units distributed across the roof, and rooftop units (RTU) to provide conditioned air to the administrative areas of the building; that additional emergency generator set up for back-up power to the building will be located in enclosures at grade in a mechanical yard on the east side of the building; that these generators will be located in acoustical enclosures and the walls of the equipment yard are considered acoustically transparent, similar to the majority of the roof screen.

Ben Diskin, Engineer, Kimley Horn, for the project testified that there is 830 feet to the nearest building; that Phase I is 45,000 sq. ft. that the existing substation is two-loading; that there are two detention basins designed for the site; that they are reducing the impervious surface development by 25%; that the water run-off is being reduced; and that they could definitely show on the plan where the required parking could be land banked without building it.

Public Comment:

Leslie Whatley, 6 Buckingham Court, Old Tappan, New Jersey testified that she owns property on the south edge of the proposal; that she is a commercial real estate professional with experience with the development of data centers; that notice was not made to the New Jersey abutting properties and even if they do not have to tell us, it would make good neighbors to do so; that her property is one acre; that the proposed building is massive; that the commercial equipment yards are huge and it is not clear what will be in them; that the containment walls are louvered and the noise will bounce off the water of Lake Tappan; that the noise at the site has been unbearable during the demolition; that there is a chance of a fire hazard due to dry conditions in the woods; damage to the wetlands and on the southeast side there is a chance to damage the eagles nest; that Phase II should end here and now; and the applicants should be good neighbors and sit and talk to all the residential neighbors that the project is going to affect.

Dave Rosen, 10 Buckingham Place, Old Tappan, New Jersey, testified that his letter was read into the record; that he has concerns about the sprawl of the project; that the way the variances are written is unclear; that he objects to Phase II being shown on the plans and it should be shut down; that the size of the building should be reduced; that the determination should be deferred to a future meeting because the interested neighbors have hired an outside engineer to dispute the applicants site sound level analysis.

Melodie Fiori, 99 Hunt Road testified that she abuts the Orangetown Sewer Department and Verizon; that there are a number of Orangetown residents residing in that are for over 50 years; that NYNEX bulldozed her property and it took two years and two attorneys to get the shed they built on my property removed; that families live here; that advancement in technology is great but it should not be at the expense of residents that pay their taxes; that she is concerned about her well water and the environment; and she agrees that Phase II should have to be removed from the plan if it is not being considered as part of the application.

Kiera Burtch, 73 Hunt Road, testified that the house has been in her family since 1955; that she also owns 67 Hunt Road; that she has concerns about the additional parking covered with blacktop and what is being done about positive run-off and negative run-off; that the oil from the generators can be a problem for the water company; that she is concerned about the woods and the buffer and the lighting; that when Brightview was built they had to do water trenches; that she is concerned about the noise and that she heard the Little League Fields are partly on this property.

Dan Sullivan, Chairman, stated that the owner of the property has the right to use their property and can stop the use by the Little League any time they choose.

Ju Fan, 34 Corringan Way, Old Tappan, New Jersey, testified that she lives behind the Bloomberg Data Center and that the noise is very loud and has been terrible from the site; that 65 dBA is laughter at the property line; that the noise is much louder than that; the noise is unbearable; that the applicant should find a way to avoid so much noise; the noise is way louder in winter when the trees are bare than during the summertime.

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Kathy Quinn Fabel, 14 Stuart Court, Old Tappan, New Jersey, testified that she takes offence to the comments that New Jersey residents have no standing; that the majority of your neighbors are CFO's of large corporations and the applicant should take note; that they are encroaching on our properties enjoyment; that in the early 2000's they were noticed for Bloomberg and worked out compromises; that the Bloomberg Data Center is loud; there is buzzing noise and smoke and helicopters landing; that the sound, smoke very little impact; that minimal setbacks should be considered; that the eagle nests and impact on the water is a concern; that no plans should show Phase II if it is not being considered; that Databank should be a good neighbor; and that no variances should be granted.

Leslie Whatley asked the Board to wait for her attorney to show up; that she was five minutes away. The board accommodated her and took a five-minute recess.

Holly Schepisi, Attorney, O' Toole Scrivo, testified that she has concerns regarding the 200' radius for neighbors not including the New Jersey neighbors; that her clients have concerns regarding the acoustical study that was done and asked the Board to wait for the report from the engineer that the neighbors hired before they make a decision; that they have concerns regarding the open equipment yards and no conditions on what is going to be placed there; that the applicant should have a condition that no heavy equipment other than what was presented should be permitted, decibel units at maximum permit could be pushed over the threshold; and they have additional concerns about the outdoor loading docks and noise generated from them; and she thanked the Board for their courtesy.

Dan Sullivan, Chairman, stated that the Board has approved other outdoor loading docks in Town and that he would like the applicant to show that they can landbank the required amount of parking spaces for Phase I; and that he does not want them constructed.

James Coffey, 139 Hunt Road, Pearl River testified that Phase II should not be considered.

The Chairman asked if anyone else in public wanted to speak; hearing none he made a motion to close the public portion of the hearing, which motion was seconded by Mr. Quinn and carried unanimously.

Brian Quinn, Attorney for the applicant, further testified that the application received preliminary approval and a neg.dec. for SEQRA on July 13, 2022; that the application was properly noticed; that he walked the property and saw the location of the eagle's nest and it was not occupied at the time; and that they are not working close to it; that they will show the 69 parking spaces and an area that the rest of the required parking spaces could be banked on the plans without actually constructing the spaces.

Lino Sciarretta, Attorney for the applicant, testified that the noticing of the hearing was proper and reflects what is required by law; that all the neighbors were considered and even the neighbors without legal standing were given the opportunity to speak; that as far as the environmental issues go that the neighbors keep bringing up, the Planning Board issued a preliminary approval and a neg dec on July 13, 2022 and they would appreciate the Board overriding comment #1 of the Rockland County Department of Planning letter dated September 19, 2022.

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.

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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 number of parking spaces, number of loading berths, exterior loading berths and buffer variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board requested the applicant to provide a plan showing the required 739 spaces for warehouse/office space minus the 69 spaces that will be constructed as land banked space on the plan. The Board also acknowledged that the applicant is asking for a reduction of loading berths from 11 required to two (2) and that they are requesting those (2) two to be non-enclosed. Two non-enclosed loading berths shall be less noisy and intrusive for the neighbors than the 11 required enclosed loading bays.
2. The requested number of parking spaces, number of loading berths, exterior loading berths and buffer variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board requested the applicant to provide a plan showing the required 739 spaces for warehouse/office space minus the 69 spaces that will be constructed as land banked space on the plan. The Board also acknowledged that the applicant is asking for a reduction of loading berths from 11 required to two (2) and that they are requesting those (2) two to be non-enclosed. Two non-enclosed loading berths shall be less noisy and intrusive for the neighbors than the 11 required enclosed loading bays.
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 number of parking spaces, number of loading berths, exterior loading berths and buffer variance is not substantial, and 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. The Board requested the applicant to provide a plan showing the required 739 spaces for warehouse/office space minus the 69 spaces that will be constructed as land banked space on the plan. The Board also acknowledged that the applicant is asking for a reduction of loading berths from 11 required to two (2) and that they are requesting those (2) two to be non-enclosed. Two non-enclosed loading berths shall be less noisy and intrusive for the neighbors than the 11 required enclosed loading bays.
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 variance.

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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 number of parking spaces, number of loading berths, exterior loading berths and buffer variances are APPROVED; and FURTHER RESOLVED to override comment #1 of the Rockland County Department of Planning letter dated September 19, 2022 because the Board has requested and the applicant has agreed to show on the plan an area that can landbank all the required parking spaces (# of spaces) less the 69 spaces that shall be provided and have been 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 number of parking spaces, number of loading berths, outdoor loading berths and buffer variances are APPROVED and to override comment #1 of the Rockland County Department of Planning letter dated September 19, 2022 because the Board has requested and the applicant has agreed to show on the plan an area that can bank all the required parking spaces minus the 69 spaces that shall be provided; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, 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: September 21, 2022

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 CLERK'S OFFICE
2022 SEP 29 A 11:43
TOWN OF ORANGETOWN

FRONT YARD VARIANCE APPROVED AS MODIFIED TO 18'

To: Anthony Cilibrasi
137 Constitution Drive
Orangeburg, New York 10962

ZBA #22-57
Date: September 21, 2022
Permit #BLDC-1555--22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-57: Application of Anthony Cilibrasi for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Columns 8 (Front Yard: 40' required, Betsey Ross Estates Subdivision required 30'; 12' proposed: **18' granted**) for a gazebo at an existing single-family residence. The property is located at 136 Constitution Drive, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.17, Block 1, Lot 27; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Anthony Cilibrasi appeared and testified.

The following documents were presented:

1. Survey dated 12/22/1969 by Fabian C. Adler & Associates with the gazebo drawn on it and five pages of the gazebo plan.
2. Zoning Board Decision #73-44 dated May 2, 1973.
3. Copy of 1969 Adler Survey with the gazebo drawn and moved in line with the existing pool at eighteen(18') feet from the front yard.
4. Two letters from abutting property owner in support of the project.

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Anthony Cilibrasi testified that he would like to install a free standing gazebo by his pool in the rear yard; that by zoning code it is a front yard because he has two front yards; that the pool was installed in 1973 and there is a certificate of occupancy for it; that he was originally asking to place it twelve (12') feet from the property line but would rather keep it in line with the pool so he is no requesting eighteen (18') feet as shown on the copy of the 1969 Adler Survey submitted.

Public Comment:

No public comment.

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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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has two front yards and the property was granted a variance for the pool in the front yard in 1973; the only logical place for the gazebo would be by the pool and the applicant has lined it up with the pool and will be continuing the eighteen (18') foot setback.
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 applicant has two front yards and the property was granted a variance for the pool in the front yard in 1973; the only logical place for the gazebo would be by the pool and the applicant has lined it up with the pool and will be continuing the eighteen (18') foot setback.
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 is not substantial, and 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. The applicant has two front yards and the property was granted a variance for the pool in the front yard in 1973; the only logical place for the gazebo would be by the pool and the applicant has lined it up with the pool and will be continuing the eighteen (18') foot setback.
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 variance.

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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 front yard variance as amended to eighteen (18') feet 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 CLERK'S OFFICE
2022 SEP 29 A 11:43
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance as amended to eighteen (18') feet is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: September 21, 2022

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
2022 SEP 29 A 11:43
TOWN CLERK'S OFFICE

FLOOR AREA RATIO, SIDEYARD, TOTAL SIDE YARD, REAR YARD AND PARKING VARIANCES FOR LOT 1.11 APPROVED : FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, BUILDING HEIGHT AND PARKING FOR LOT 1.12 APPROVED

To: Jesse Cokeley (St. Dominic's Family Services)
50 Chestnut Ridge Road Suite 101
Montvale, New Jersey 07645

ZBA #22-58
Date: September 21, 2022
Permit #ZON-000239-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-58: Application of St. Dominic's Family Services for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Section 3.12, Group H, Columns 4 (Floor Area Ratio: .15 permitted, .44 proposed), 9 (Side Yard: 100' required, 71.1' proposed) 10 (Total Side Yard: 200' required, 154.1' proposed) and 11 (Rear Yard: 100' required, 16.2' proposed) for proposed lot 1.11 and from Columns 4 (Floor Area ratio: .15 required, .29 proposed) 8 (Front Yard: 100' required, 3.1' existing and proposed to building #7); 9 (Side Yard: 100' required, 12.7' proposed), 10 (Total Side Yard: 200' required, 49.9' proposed) 11 (Rear Yard" 100' required, 5.7' proposed) and 12 (Building Height: .78 permitted, 30' existing) for proposed lot 1.12 and from Section 3.1, Column 6 refers to R-80, Column 6 # 4 (Parking: 695 spaces required, 38 spaces provided for lot 1.11) and (Parking 486 parking spaces required., 148 parking spaces existing for Lot 1.12) for a subdivision and site plan at St. Dominic Family Services located at 500 Western Highway, Blauvelt, New York and identified on the Orangetown Tax Map as Section 74.06, Block 1, Lot 1 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Ira Emanuel, Attorney, James Crisci, CFO, St. Dominic's Family Services, Jesse Cokeley, Engineer, appeared and testified.

The following documents were presented:

1. Plans labeled "Preliminary/Final Subdivision Plat for St. Dominic's Family Services" dated May 18, 2022 by Colliers Engineering and Design. (1 Page)
2. Memorandums dated July 21, 2022, August 9, 2022 and August 25, 2022 from Jane Slavin, RA. Director, OBZPAE.
3. Cover letter dated August 3, 2022 from Ira M. Emanuel, Esq. (5 pages)
4. Short environmental assessment form Part I prepared by Jesse Cokeley, PE, dated August 5, 2022.
5. A letter dated September 16, 2022 from Rockland County Department of planning signed by Douglas J .Schuetz, Acting Commissioner of Planning.
6. A letter dated September 6, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
7. A sign off "no comments at this time" from Elizabeth Mello P.E. Rockland County Health Department.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and,

on September 14, 2022 (PB# 22-43) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "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 § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

Ira Emanuel, Attorney for the applicants, testified that the Sisters of St, Dominic's and St. Dominic's Family Services have shared the property for last 50 years; that they are proposing to subdivide the property in order to get financing and grants; that the uses for the properties are not changing; that the lot lines are changing; that easements will be filed; that the parking conditions exist today and they would like to request an override for #1, 3 and 6 of the Rockland County Department of Planning letter dated September 16, 2022; that the potential impacts of the requested variances is part of the statutory balancing act in consideration of the granting of a variance; that the Federal Wetlands on the site is the existing pond in front of the Motherhouse and there are no plans to disturb it; the parking and use of the site is not changing and the Office of Building Zoning Planning Administration and Enforcement, Town of Orangetown dated August 25, 2022 addresses these parking variances.

Jesse Cokeley, P.E., testified that there is a saw tooth type line running through the property depicting the proposed subdivision of the property and all of the easements and cross easement shall be labeled on the plan; that many of the variances are for existing conditions and more are added because of the proposed line; that the use of the property is not changing; that the middle line creates new setbacks , some improved and some smaller; that the parking is going to stay as it is today; that the property was developed without the intent to subdivide; that there are 43 sisters in the mother house and most do not drive; that there are approximately 100 employees and the lot is busiest in the morning but accommodates both uses; that the property line and cross easements will protect the existing generators.

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 floor area ratio, side yard, total side yard, rear yard and parking variances for lot 1.11 and the floor area ratio, front yard, side yard, total side yard, rear yard, building height, and parking variances for lot 1.12 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is being subdivided to afford St. Dominic's Family Services the opportunity for better financing and grants to continue to offer their services; the use of the property is not changing; as long as all of the easements and cross easements are clearly marked on the plan, this subdivision will serve both parties well without any obvious change to the property.

2. The Board has acknowledged #1, #3 and #6 of the Rockland County Department of Planning letter dated September 16, 2022 and has chosen to override all three items for the following reasons: (a) the Board undertakes a thorough investigation of every variance that is requested and performs its statutory balancing act in consideration of the requested variance; (b) the federal wetland on the site is an existing pond in the front of the mother house and there are no plans to disturb it; (c) The parking on the property has always been sufficient and since the use of the property is not changing the parking shall remain sufficient;
3. The requested floor area ratio, side yard, total side yard, rear yard and parking variances for lot 1.11 and the floor area ratio, front yard, side yard, total side yard, rear yard, building height, and parking variances for lot 1.12 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is being subdivided to afford St. Dominic's Family Services the opportunity for better financing and grants to continue to offer their services; the use of the property is not changing; as long as all of the easements and cross easements are clearly marked on the plan, this subdivision will serve both parties well without any obvious change to the property.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, side yard, total side yard, rear yard and parking variances for lot 1.11 and the floor area ratio, front yard, side yard, total side yard, rear yard, building height, and parking variances for lot 1.12 although substantial, and 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. The property is being subdivided to afford St. Dominic's Family Services the opportunity for better financing and grants to continue to offer their services; the use of the property is not changing; as long as all of the easements and cross easements are clearly marked on the plan, this subdivision will serve both parties well without any obvious change to the property.
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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio, side yard, total side yard, rear yard and parking variances for lot 1.11 and the floor area ratio, front yard, side yard, total side yard, rear yard, building height, and parking variances for lot 1.12 are APPROVED; and FURTHER RESOLVED, that #1, #3 and #6 of the Rockland County Department of Planning letter dated September 16, 2022 and has chosen to override all three items for the following reasons: (a) the Board undertakes a thorough investigation of every variance that is requested and performs its statutory balancing act in consideration of the requested variance; (b) the federal wetland on the site is an existing pond in the front of the mother house and there are no plans to disturb it; (c) The parking on the property has always been sufficient and since the use of the property is not changing the parking shall remain sufficient; 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.

TOWN CLERK'S OFFICE

2022 SEP 29 AM 11:43

TOWN OF ORANGETOWN

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 OF ORANGETOWN
2022 SEP 29 11:04
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard, rear yard and parking variances for lot 1.11 and the floor area ratio, front yard, side yard, total side yard, rear yard, building height, and parking variances for lot 1.12 are APPROVED and #1, #3 and #6 of the Rockland County Department of Planning letter dated September 16, 2022 and has chosen to override all three items for the following reasons: (a) the Board undertakes a thorough investigation of every variance that is requested and performs its statutory balancing act in consideration of the requested variance; (b) the federal wetland on the site is an existing pond in the front of the mother house and there are no plans to disturb it; (c) the parking on the property has always been sufficient and since the use of the property is not changing the parking shall remain sufficient; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: September 21, 2022

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-N.A.

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

TOWN OF ORANGETOWN
2022 SEP 29 A 11:44
TOWN CLERK'S OFFICE

SIDE YARD NAD TOTAL SIDE YARD VARIANCES APPROVED

To: Ralph Spano (Mazurek)
11 Conklin Avenue
Tappan, New York 10983

ZBA #22-59
Date: September 21, 2022
Permit #BLDR-1010--22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-59: Application of Christopher Mazurek for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 18.5' proposed) and 10 (Total Side Yard: 50' required, 46' proposed) for an addition of a deck to an existing single-family residence. The property is located at 21 Blair Court, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.15, Block 3, Lot 11; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Ralph Spano, Sunshine Plumbing and Heating, appeared and testified.

The following documents were presented:

1. Survey dated June 18, 2014 last revised July 7, 2022 signed and sealed by Robert E. Sorace, PLS.
2. A letter in support of the application signed by six neighbors.

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn, and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Ralph Spano, Contractor, testified that the deck is elevated and runs parallel to the house; that the house sits crooked on the lot; that the deck will have a decorative railing; that the topography of the land is difficult; that the deck will be 9 to 9 feet off the ground and it does not obstruct any views for the neighbors and won't be seen from the street.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
2022 SEP 29 A 11:44
TOWN CLERK'S 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 and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The house was built crooked on the lot and any addition to the rear of the house running parallel to the house would require a variance.
2. The requested 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 house was built crooked on the lot and any addition to the rear of the house running parallel to the house would require a variance.
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 and total side yard variances although somewhat substantial, and 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. The house was built crooked on the lot and any addition to the rear of the house running parallel to the house would require a variance.
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 variance.

TOWN OF ORANGETOWN
2022 SEP 29 A 11:44
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested 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 CLERK'S OFFICE
2022 SEP 29 A 11:04
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and total side yard variances are APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: September 21, 2022

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-G.M.

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

TOWN OF ORANGETOWN
2022 SEP 29 A 11:44
TOWN CLERK'S OFFICE

FRONT YARD VARIANCE APPROVED

To: Robert Zaccone (Giulio’s)
150- 154 Washington Street
Tappan, New York 10983

ZBA #22-60
Date: September 21, 2022
Permit #BLDC-1542--22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-60: Application of Giulio’s Restaurant for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Group FF, Section 3.12, Columns 8 (Front Yard: 0’ or 45’ required, 27.7’ proposed); for the addition of a handicap ramp to an existing restaurant. The property is located at 150-154 Washington Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 56.1; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Robert Zaccone, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled “Proposed Ramp for Giulio’s Restaurant” dated July 29, 2022 signed and sealed by Robert M. Zaccone, Architect.
2. A letter dated September 16, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated September 6, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated August 26, 2022 from Rockland County Drainage Agency signed by Shajan Thottakara, P.E.
5. Sign-offs “No Comment at this time” signed by Dyan Rajashingham, Rockland County Highway Department and Elizabeth Mello, Rockland County Health Department.

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Robert Zaccone, Architect, testified that the proposal is to add an accessibility ramp to the front of the building that will be ADA compliant and to add railings onto the front porch due to safety concerns and to re-paint the building.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2022 SEP 29 4:11:44
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 Mr. Bonomolo 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 front yard variance is necessary in order to make this historical building ADA compliant.
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 front yard variance is necessary in order to make this historical building ADA compliant.
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 is not substantial, and 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. The front yard variance is necessary in order to make this historical building ADA compliant.
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 variance.

TOWN CLERK'S OFFICE
SEP 29 11:49
TOWN OF ORANGETOWN

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.


TOWN CLERK'S OFFICE
SEP 29 11:58 AM '22
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: September 21, 2022

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
2022 SEP 29 A 11:45
TOWN CLERK'S OFFICE

**ACCESSORY STRUCTURE DISTANCE TO PRINCIPAL STRUCTURE VARIANCE
APPROVED**

To: Robert Silarski (Mc Closkey)
41A North Broadway
Nyack, New York 10950

ZBA #22-61
Date: September 21, 2022
Permit #BLDC-415-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-61: Application of William McCloskey for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 5.153 (Accessory Structure Distance from Principal Building: 15' required, 12'6" proposed & existing) for an existing carport at an existing single-family residence. The property is located at 262 South Boulevard, Upper Grandview, New York and is identified on the Orangetown Tax Map as Section 66.17, Block 1, Lot 23; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Robert Silarski, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Existing Carport & Balcony Extension" dated February 3, 2022 with the latest revision date of 03/8/ 2022 signed and sealed by Robert Silarski, Architect. (1 page)

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Robert Silarski, Architect, testified that the house balconies were existing in 1970's; that the carport was constructed in the 1990's; that the property changed hands in early 2000's and the title search called out the violation of the carport being too close to the house because of the jut-out of the existing balconies; and that he is before the Board to legalize an existing condition.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2022 SEP 29 AM 11:43
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 Mr. Bosco 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 accessory structure distance to primary structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The accessory structure distance should be 15' and the existing condition is 12.6 feet and has existed as such, since some time in the 1990's without incident, therefore the Board is comfortable in granting this variance.
2. The requested accessory structure distance to primary structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The accessory structure distance should be 15' and the existing condition is 12.6 feet and has existed as such, since some time in the 1990's without incident, therefore the Board is comfortable in granting this variance.
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 accessory structure distance to primary structure variance is not substantial, and 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. The accessory structure distance should be 15' and the existing condition is 12.6 feet and has existed as such, since some time in the 1990's without incident, therefore the Board is comfortable in granting this variance.
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 variance.

TOWN CLERK'S OFFICE
2022 SEP 29 4:14 PM
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested accessory structure distance to primary structure 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 CLERK'S OFFICE
2022 SEP 29 4:18:05
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested accessory structure distance to primary structure variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, 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: September 21, 2022

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-Dom M.

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

TOWN OF ORANGETOWN
2022 SEP 29 A 11:45
TOWN CLERK'S OFFICE

REAR YARD VARIANCE APPROVED

To: Robert Silarski (Domozick)
41A North Broadway
Nyack, New York 10960

ZBA #22-56
Date: September 21, 2022
Permit #51279

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-62: Application of Lauren and Aric Domozick for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12 Column 11 (Rear Yard: 35' required, 29.56' proposed & existing) for an existing deck at an existing single-family residence. The property is located at 50 Kirchner Drive, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 3, Lot 92; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Robert Silarski, Architect, and Aric Domozick appeared and testified.

The following documents were presented:

1. Plans labeled "Existing Deck @Domozick Residence" dated July 11, 2022 with the latest revision date of 07/22/ 2022 signed or sealed by Robert Silarski, Architect. (1 page).

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Robert Silarski, Architect, testified that the deck has existing since before 2020 when Aric Domozick purchased the property; that they found out after they purchased the house that the deck was not up to code and they have fixed that; that they are requesting the rear yard variance to keep the deck where it is located and they are not changing anything.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE
2022 SEP 29 4 14 PM
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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks exist in the neighborhood.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks exist in 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 rear yard variance is not substantial, and 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. Similar decks exist in the neighborhood.
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 variance.

TOWN CLERK'S OFFICE

2022 SEP 29 4:11:46

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested rear 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 OF ORANGETOWN
2022 SEP 29 4 11 PM
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: September 21, 2022

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 CLERK'S OFFICE
2022 SEP 29 A 11:49
TOWN OF ORANGETOWN

REAR YARD, BUILDING HEIGHT, SECTION 6.4 # OF LOADING BERTHS, AND SECTION 13.10 B (1), B (2), AND B (10) VARIANCES APPROVED

To: Ryan Nasher (South Corner Plaza)
Atzl, Nasher & Zigler P.C.
232 North Main Street
New City, New York 10956

ZBA #22-63
Date: September 21, 2022
Permit #ZON-000249-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-63: Application of South Corner Plaza for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 3.11, Group JJ, Columns 11 (Rear Yard: 25' permitted 14' proposed for Dumpster Enclosure), and 12 (Building Height: 22' permitted, 29'5" proposed) and from Section 6.4 (minimum loading berths required is 1 and 0 are proposed) and from Section 13.10 Route 303 Overlay Non-Residential areas: B (1) (Shall be adequately screened to minimize visual impact to passerby on Route 303); B (2) Twenty-five foot vegetative buffer granted in ZBA#15-66 dated July 15, 2015) and B (10): (No more than 35% [18 spots] of all parking shall be located within the front yard of any lot or parcel: 22 spots proposed in the front yard which results in 42%) and from this proposal is for a smaller building. The property is located at 2 Route 340, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.11, Block 2, Lot 47; CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 21, 2022 at which time the Board made the determination hereinafter set forth.

Ryan Nasher, P.E., Donald Brenner, Attorney, Christine Coyne, Danial Samimi, property owners, Matthew Oscar, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "S Corner Plaza" dated August 5, 2021 with the latest revision date of August 16, 2022 signed or sealed by John Atzl, P.L.S. and Ryan Nasher, P.E., Atzl, Nasher, & Zigler, PC. (12 pages).
2. Plan labeled "South Corner Plaza 1st Flr. Plan, Roof Plan, Elev.s & Section. ZBA Application" dated 08/02/ 2022 signed or sealed by Matthew Oscar, Architect. (1 Page)
3. Cover letter dated July 18, 2022 from Atzl, Nasher & Zigler, PC.
4. A memorandum dated July 5, 2022 from Jane Slavin, RA, Director, OBZPAE.
5. ZBA Decision #15-66 dated July 15, 2015.
6. Full Environmental Assessment Form with attachments.
7. A letter dated September 19, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz.
8. A letter dated September 7, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
9. A letter dated September 19, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
10. A "No future comments" from Rockland County Highway Department signed by Dyan Rajasingham, dated August 23, 2022.

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

TOWN OF ORANGETOWN
ZONING BOARD OF APPEALS
SEP 21 2022

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a “Negative Declarations” of “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 § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

Donald Brenner, Attorney, testified that the application was before the Board in 2017 and received greater variances than they are requesting today; that because of financing problems they have scaled back the project; that the building is slightly smaller and this will be the first building in the county with a “green” roof; that the green roof is very beneficial for drainage purposes; and that they have no problem designating two parking spaces as a loading /unloading area for deliveries.

Ryan Nasher, P.E., testified that the dumpster was placed at this location to be out of the way of traffic; that the project received a preliminary approval and a neg dec. in July 2022; that they do not know what companies will be occupying the spaces yet because they do not have signed leases; that they would like to accommodate the board’s request and designate two parking spaces on the south side of the parking lot next to each other as a loading/unloading area for deliveries; and that they would request that the board override comments #1, #2, #5 and #10 of the Rockland County Department of Planning letter dated September 19, 2022 because the property sits so far below Route 303 and has the stream (Sparkill Creek) in between Route 303 and the property that implementing a 25’ buffer would be almost impossible and not visible from Route 303; that the dumpster location was discussed at the Planning Board and this is the most practical area for it without disturbing the parking area; and that the application took a long to get approval from the Planning Board and a Negative Declaration because the Sparkill Creek Watershed was considered at great length prior to the application getting a preliminary approval and a Negative Declaration.

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 Mr. Bosco and carried unanimously.

TOWN CLERK'S OFFICE
SEP 29 AM 11:01
TOWN OF ORANGETOWN

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 rear yard, building height, Section 6.4- Number of Loading Berths, and Section 13.10 b(1), B(2), & B(10) Route 303 Overlay variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the decrease in the size of the building since it was approved in 2017; that this will be the first building with a “green” roof in the Town of Orangetown and that the green roof is a substantial improvement for drainage on the site so close to the Sparkill Creek. The Route 303 Overlay exceptions were considered minor because this site sits so far below the view of Route 303 and the Sparkill creek runs very close to Route 303.
2. The Board overrode comments #1, #2, #5 and #10 of the Rockland County Department of Planning letter dated September 19, 2022 because the property sits so far below Route 303 that implementing a 25’ buffer would be almost impossible and not visible from Route 303; that the dumpster location being a significant distance from the building was not a concern for the board; and that the application took a long time to get approval from the Planning Board and a neg dec because of it close location to the Sparkill Creek Watershed and the Board assumes the Planning Board did their job considering the environmental concerns prior to issuing a neg.dec.
3. The requested rear yard, building height, Section 6.4- Number of Loading Berths, and Section 13.10 b(1), B(2), & B(10) Route 303 Overlay variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the decrease in the size of the building since it was approved in 2017; that this will be the first building with a “green” roof in the Town of Orangetown and that the green roof is a substantial improvement for drainage on the site so close to the Sparkill Creek. The Route 303 Overlay exceptions were considered minor because this site sits so far below the view of Route 303 and the Sparkill creek runs very close to Route 303.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested rear yard, building height, Section 6.4- Number of Loading Berths, and Section 13.10 b(1), B(2), & B(10) Route 303 Overlay variances although somewhat substantial, and 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. The Board acknowledged the decrease in the size of the building since it was approved in 2017; that this will be the first building with a “green” roof in the Town of Orangetown and that the green roof is a substantial improvement for drainage on the site so close to the Sparkill Creek. The Route 303 Overlay exceptions were considered minor because this site sits so far below the view of Route 303 and the Sparkill creek runs very close to Route 303.
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 variance.

APPEALS DIVISION
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested rear yard, building height, Section 6.4- Number of Loading Berths, and Section 13.10 b(1), B(2), & B(10) Route 303 Overlay 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 CLERK'S OFFICE
2022 SEP 29 A 11:46
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard, building height, Section 6.4- Number of Loading Berths, and Section 13.10 b(1), B(2), & B(10) Route 303 Overlay variances are APPROVED; and overriding comments #1, #2, #5 and #10 of the Rockland County Department of Planning letter dated September 19, 2022 because the property sits so far below Route 303 that implementing a 25' buffer would be almost impossible and not visible from Route 303; that the dumpster location being a significant distance from the building was not a concern for the board; and that the application took a long time to get approval from the Planning Board and a Negative Declaration because of its close location to the Sparkill Creek Watershed and the Board assumes the Planning Board did their job considering the environmental concerns prior to issuing a Negative Declaration; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, aye; and Mr. Quinn, 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: September 21, 2022

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-N.A.

TOWN CLERK
HIGHWAY DEPARTMENT
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DEPT. of ENVIRONMENTAL
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CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERK'S OFFICE
2022 SEP 29 A 11:49
TOWN OF ORANGETOWN