

MINUTES
ZONING BOARD OF APPEALS
October 19, 2022

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
ROBERT BONOMOLO, JR.
PATRICIA CASTELLI
BILLY VALENTINE

ABSENT: MICHAEL BOSCO
THOMAS QUINN

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Dennis Michaels, 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

POSTPONED ITEM:

MOMENTIVE PERFORMANCE 401 N. Middletown Road Pearl River, New York 68.08 / 1 / 1; LI zone	SIGN VARIANCE APPROVED	ZBA#22-53
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NEW ITEMS:

SCHLINCK 60 Kings Highway Orangeburg, New York 74.11 / 2 / 18; R-40 zone	FRONT YARD VARIANCE APPROVED	ZBA#22-66
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HOLT-FINE 55 Glen Byron Avenue South Nyack, New York 66.70 / 2 / 23; R-12 zone	FRONT YARD VARIANCE APPROVED South Nyack code adopted Orangetown Code as of September 13, 2022	ZBA#22-67
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VERDICCHIO 137 Penn Court Orangeburg, New York 74.17 / 1 / 74; R-22 zone	CONTINUED	ZBA#22-68
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BATTAGLIA EXTENSION OF TIME TO IMPLEMENT 4 Dorsey Court Orangeburg, New York 69.08 / 1 / 4.1; R-40 zone	EXTENSION OF TIME GRANTED FOR 18 MONTHS	ZBA#22-69
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TOWN CLERK'S OFFICE
OCT 21 P 12:40
2022

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

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

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

Dated: October 19, 2022

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

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 OCT 27 P 12:40
TOWN OF ORANGETOWN

SIGN VARIANCE APPROVED

To: Structure Tone (Monte Berzon)
10 Woodbridge Drive 8th floor
Woodbridge, New Jersey 07095

ZBA #22-53
Date: September 7, 2022
Permit #Sign 1477-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-53: Application of Momentive Performance for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, , LO District, Section 3.11, LI District, Column 5, Paragraph 7 (Signage: 60 sf permitted, 203 sf proposed) for signage to identify a business on the interior of the campus. The property is located at 401 North Middletown Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 1; in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 7, 2022 at which time the Board made the determination hereinafter set forth.

Monte Berzon, Construction Manager, Mike Wendt, Architect, and Michael Hennessy, Momentive Representative, appeared and testified.

The following documents were presented:

1. Plans labeled "Momentive Project Oyster Exterior Signage Submission" dated June 10, 2022 by Gensler Architect and Rock Book Engineer no signed or sealed. (5 pages).
2. Survey by Edward T. Gannon P.L.S. dated 07/09/2015.
3. A letter dated August 30, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning. (3 pages)
4. A letter dated August 18, 2022 from Town of Clarkstown Planning Board signed by Edward J. Guardaro Jr. Vice-Chairman.
5. A letter dated August 17, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A sign off sheet "No comments at this time" dated September 6, 2022 signed by 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 Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application seeks area or bulk variances for construction or expansion of primary, or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Valentine, aye; and Mr. Sullivan, aye. Mr. Quinn and Mr. Bosco were absent.

Mike Wendt, Architect, testified that the tenant is occupying 63,000 sq. ft. of the multi-tenant building that is commonly referred to as building 180; that the building sign is proposed to be installed above the entrance and the other two signs are proposed for the concrete walls at the patio vestibule; that these two signs will not be illuminated; that none of the signs are visible from Middletown Road, Crooked Hill Road or Route 304; that the building is on the south end of the campus and a 60 SF sign on the 150' long façade would not be proportionate to the building; and the corner signs on the wall are finding signs and allow recognition from two approaches to the building and they would request an override of #1 of the Rockland County Department of Planning letter dated August 30, 2022.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested sign variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed signs are interior to the campus and are not visible from any of the exterior roads, Middletown Road, Crooked Hill Road or Route 304; and the permitted 60 SF sign would look disproportionate on a building façade of this size and the proposed two signs on the walls provide direction to the building from two separate approaches.
2. The clerk to the Board sent out packages to referral agencies on July 15, 2022 requesting their comments and concerns regarding the project. These packages were sent to Rockland County Department of Highways and the New York state Department of Transportation and neither one of these agencies responded.
3. The requested sign variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed signs are interior to the campus and are not visible from any of the exterior roads, Middletown Road, Crooked Hill Road or Route 304; and the permitted 60 SF sign would look disproportionate on a building façade of this size and the proposed two signs on the walls provide direction to the building from two separate approaches.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested sign variance 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 proposed signs are interior to the campus and are not visible from any of the exterior roads, Middletown Road, Crooked Hill Road or Route 304; and the permitted 60 SF sign would look disproportionate on a building façade of this size and the proposed two signs on the walls provide direction to the building from two separate approaches.
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 sign size variance is APPROVED; and FURTHER RESOLVED, to over-ride comment #1 of the Rockland County Department of Planning Letter dated August 30, 2022 because the proposed signs are NOT along any County or State Road and cannot be seen from any County or State Road, and in this particular case, the proposed size of the signs are appropriate for this building and its location; 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.


CLERK
2022 OCT 27 12:40
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested signage variance and to over-ride comment #1 of the Rockland County Department of Planning Letter dated August 30, 2022 because the proposed signs are NOT along any County or State Road and cannot be seen from any County or State Road, and in this particular case, the proposed size of the signs are appropriate for this building and its location;; was presented and moved by Mr. Sullivan, seconded by Mr. Valentine and carried as follows: Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Valentine, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: September 7, 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 CLERK'S OFFICE
2022 OCT 27 P 12:40
TOWN OF ORANGETOWN

FRONT YARD VARIANCE APPROVED

To: George Schlinck
60 Kings Highway
Orangeburg, New York 10962

ZBA #22-66
Date: October 19, 2022
Permit #BLDR-1607-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-66: Application of George Schlinck for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code; R-40 District, Group E, Section 3.12, Column 8 (Front Yard: 50' required, 39.7' proposed) for a front porch at an existing single-family residence. The premises are located at 60 Kings Highway, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.11, Block 2, Lot 18; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 19, 2022 at which time the Board made the determination hereinafter set forth.

George Schlinck appeared and testified.

The following documents were presented:

1. Plot plan drawing by Thomas Nevins dated 7/11/22.
2. A letter dated October 12, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated October 7, 2022 from Rockland County Sewer District No1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated September 27, 2022 from Rockland County Drainage Agency signed by Shajan S. Thottakara, P.E., CFM.
5. A sign-off sheet "No future correspondence for this site" from Dyan Rajasingham, Rockland County Highway Department dated 9/21/2022.
6. A sign-off sheet "No Comments at this time" dated 10/13/22 from Rockland County Health Department signed by Elizabeth Mello.
7. A letter in support of the application signed by two abutting property owners, 64 Kings Highway & 54 Kings Highway.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

George Schlinck testified that they would like to remove the crumbling concrete steps and pad and replace it with a 6' x 22' deck with steps; that he found out from the building inspector that he would need a variance even if he just replaced the steps; that a few of the neighbors have already made this type of improvement to their property; that they are not getting younger and would like to have a small porch and steps that go directly to the driveway; that the existing steps are no longer safe and they would like to have a larger porch area for safety reasons.

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 front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing steps and concrete pad are no longer safe and replacing them with a wood deck and steps will allow for a safe entrance into the house. Other houses in the area have similar front porches.
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 existing steps and concrete pad are no longer safe and replacing them with a wood deck and steps will allow for a safe entrance into the house. Other houses in the area have similar front porches.
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 existing steps and concrete pad are no longer safe and replacing them with a wood deck and steps will allow for a safe entrance into the house. Other houses in the area have similar front porches.
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 OCT 27 P 12:40

TOWN OF ORANGETOWN

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

OCT 27 12 40


2022 OCT 27 12 40

The foregoing resolution to approve the application for the requested front yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Sullivan was late and missed this hearing. Mr. Quinn and Mr. Valentine were absent.

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

DATED: October 19, 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-K.L.

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

TOWN CLERK'S OFFICE
2022 OCT 27 P 12:41
TOWN OF ORANGETOWN

FRONT YARD VARIANCE APPROVED

To: Kier Levesque (Holt-Fine)
49 Third Avenue
Nyack, New York 10960

ZBA #22-67
Date: October 19, 2022
Permit #BLDR-1185-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-67: Application of Rebecca Holt Fine for a variance from South Nyack Zoning Code (Chapter 330), R-12 District, Schedule 1, (Front Yard: 35' required, 25' and 25.2' proposed) for an addition to an existing single-family residence. The property is located at 55 Glen Byron Avenue, South Nyack, New York and is identified on the Orangetown Tax Map as Section 66.70, Block 2, Lot 23; in the R-12 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 19, 2022 at which time the Board made the determination hereinafter set forth.

Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Fine Addition 55 Glen Byron Ave. South Nyack NY" dated May 5, 2022 with the latest revision date September 6, 2022 signed and sealed by Kier B. Levesque, Architect. (2 pages).
2. Planning Board Decision #22-49 dated September 14, 2022

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since this application seeks (i) to construct or expand a single, two or three family residence on an approved lot, (ii) to construct, expand or place a minor accessory or appurtenant residential structure, (iii) area or bulk variances for construction or expansion of, or relating to, a single, two or three family residence, and/or (iv) only setback or lot line variances, this application is exempt from environmental review under the State Environmental Quality Review Act pursuant to SEQRA Regulations 617.5(c)(11), (12), (16) and/or (17). The motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Mr. Quinn were absent.

Kier Levesque testified that this application was heard before the Planning Board on September 14, 2022 and referred to the zoning board; that they are proposing to square off the house to enlarge the existing kitchen; that the existing front yard setback of 25' and 25.2' are not changing; that the Village of South Nyack Zoning Code was recently adopted by Orangetown without any changes; that the proposal is in keeping with the character of the neighborhood and this aligns with the existing setbacks; and that he recently asked Cheryl Coopersmith if the Code was adopted and she said not yet.

Public Comment:

No public comment.

2022 OCT 27 12:41
TOWN OF ORANGETOWN

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

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

Ms. Castelli 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 now repealed Village of South Nyack Zoning Code, Chapter 330, Section 330, Schedule 1, R-12 District, has been adopted by the Town of Orangetown, and incorporated into the Orangetown Zoning Code (Chapter 43), without any changes; and the Board finds that, since this application would be requesting identical variances under the Orangetown Zoning Code (Chapter 43), the Board is hereby granting and approving all of the variances requested herein from both the defunct Village of South Nyack Zoning Code and the Orangetown Zoning Code.
2. 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 several other properties in the area have similar setbacks. The proposed addition is not increasing the existing non-conforming front yard setback. The now repealed Village of South Nyack Zoning Code, Chapter 330, Section 330, Schedule 1, R-12 District, has been adopted by the Town of Orangetown, and incorporated into the Orangetown Zoning Code (Chapter 43), without any changes.
3. 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 several other properties in the area have similar setbacks. The proposed addition is not increasing the existing non-conforming front yard setback. The now repealed Village of South Nyack Zoning Code, Chapter 330, Section 330, Schedule 1, R-12 District, has been adopted by the Town of Orangetown, and incorporated into the Orangetown Zoning Code (Chapter 43), without any changes.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested 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 several other properties in the area have similar setbacks. The proposed addition is not increasing the existing non-conforming front yard setback. The now repealed Village of South Nyack Zoning Code, Chapter 330, Section 330, Schedule 1, R-12 District, has been adopted by the Town of Orangetown, and incorporated into the Orangetown Zoning Code (Chapter 43), without any changes.
6. The applicant purchased the property subject to the now repealed Village of South Nyack Zoning Code, which has been adopted by the Town of Orangetown, and incorporated into the Orangetown Zoning Code (Chapter 43), without any changes, 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 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.

2022 OCT 27 PM 10:11
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance is APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bonomolo and carried as follows: Mr. Bonomolo, aye; Mr. Valentine, aye; and Ms. Castelli, aye. Mr. Sullivan was late and missed this hearing. Mr. Quinn and Mr. Bosco were absent.

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

DATED: October 19, 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-Ken L.

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

TOWN CLERK'S OFFICE
2022 OCT 27 P 12:41
TOWN OF ORANGETOWN

FLOOR AREA RATIO AND REAR YARD VARIANCES APPROVED AS MODIFIED

To: Jonathan Hodash (Battaglia)
331 North Main Street Suite 12
New City, New York 10956

ZBA #22-69
Date: October 19, 2022
Permit #50258

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 22-69: Application of Phil Battaglia for an extension of time to implement variances granted in ZBA#20-62: Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-40 District, Group E, Section 3.12, Column 4 (Floor Area Ratio: .15 Permitted, .23 proposed, .216 granted), 11 (Rear Yard: 50' required, 20' proposed, 24' granted) for an addition to an existing single-family dwelling. The property is located at 4 Dorsey Court, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 69.08, Block 1, Lot 4.1 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 19, 2022 at which time the Board made the determination hereinafter set forth.

Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "The Battaglia Residence" dated June 12, 2020 with the latest revision dated of September 22, 2022 signed and sealed by Jonathan Hodash, Architect. (6 pages).
2. ZBA Decision #20-62 dated September 16, 2020.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

Jonathan Hodash, Architect, testified that the applicant go approval for this project and then COVID hit and time ran out to implement the variances; that they did make a correction to the plans that were originally submitted because there was an error regarding the total side yard which should say 195.6'; that they are planning to start in early spring; that they also have a second option with a slightly smaller plan and a three car garage, and would appreciate the Board giving them the option of going smaller; that because of cost they would like to have a smaller option; that they understand the board's opinion and that an 18 month extension would be good.

10/19/2022 10:00 AM

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Dan Sullivan, Chairman stated that the Board can grant the extension of time to implement the variances but if the plans change they would have to go back to the Building Inspector and return to the Board, that they cannot grant an option.

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. 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. No significant change in circumstances has occurred since the prior approved variances were granted that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect construction to begin in the near future.

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TOWN OF WEST HAVEN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested extension of time to implement variances that were granted in ZBA #20-62 are APPROVED for 18 months from the date of this stamped decision; 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.

APPROVED AND FORWARDED:

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15 21 27 130 3300

The foregoing resolution to approve the application for the requested extension of time to implement variances that were granted in ZBA #20-62 is APPROVED for 18 months from the date of this stamped decision; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Valentine and Ms. Castelli, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: October 19, 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
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