

MINUTES
ZONING BOARD OF APPEALS
December 7, 2022

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

ABSENT: MICHAEL BOSCO

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:

TAPPAN FIRE DISTRICT
300 Western Highway
Tappan, New York
74.18 / 2 / 35; R-15 zone

SIDE YARD AND FRONT YARD
VARIANCES GRNATED ZBA#22-73

WERFEN
526 Route 303
Orangeburg, New York
70.19 / 1 / 45; LO zone

SIGN SIZE, ILLUMINATION ZBA#22-74
AND LOCATION VARIANCES
APPROVED AS MODIFIED
ROUTE 303 OVERLAY VARIANCES APPROVED

SUBARU
582 Route 303
Blauvelt, New York
70.14 / 4 / 12; CC zone

SIGN SIZE, ILLUMINATION ZBA#22-75
AND LOCATION VARIANCES APPROVED
ROUTE 303 OVERLAY VARIANCES APPROVED

ZAPATA
17 Andre Hill Road
Tappan, New York
77.10 / 3 / 76.1; R-15 zone

CONTINUED ZBA#22-76

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

TOWN CLERK'S OFFICE
2022 DEC 14 A 10:11
TOWN OF ORANGETOWN

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

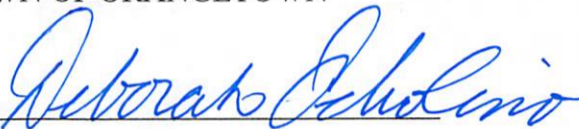
OTHER BUSINESS:

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 SEQRA Regulations § 617.6 (b)(3) the following application: 14 DeLongis Court Site Plan, Retaining Wall Repair, 14 DeLongis Court, Sparkill, NY 77.12/ 1 / 34; RG zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:20 P.M.

Dated: December 7, 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 OF ORANGETOWN
2022 DEC 14 A 10:11
TOWN CLERK'S OFFICE

FRONT YARD. AMD SIDE YARD VARIANCES APPROVED

To: Atzl, Nasher & Zigler (Tappan Fire)
232 N. Main Street
New City, New York 10956

ZBA #22-73
Date: December 7, 2022
Permit #BLDR-1341-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-73: Application of Tappan Fire District for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group P, Columns 8 (Front Yard: 100' required, 65.7 existing, 88' proposed) and 9 (Side Yard: 100' required, 55.3' existing, 72' proposed) for an accessory building at the exiting firehouse. The premises are located at 300 Western Highway, Tappan, New York and identified on the Orangetown Tax Map as Section 74.18, Block 2, Lot 35 in the R-15 zoning district.

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

Mr. Quinn recused himself because he is a member of the Tappan Fire District.

Ryan Nasher, P.E., and Robert Ortman, Tappan Fire District, appeared and testified.

The following documents were presented:

1. Site Development Plan Tappan Fire District dated June 24, 2022 with the latest revision date of 7/15/2022 signed and sealed by John R. Atzl, L.S., and Ryan A. Nasher, P.E. (10 pages).
2. A letter dated December 2, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated November 22, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated November 23, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
5. No comments at this time reply from Rockland County Highway Department dated 11/10/2022 signed by Dyan Rajasingham.

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 October 12, 2022 (as set forth in PN#22-55), 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. Valentine, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent. Mr. Quinn recused himself.

11:01 AM DEC 14 2022
TOWN OF ORANGETOWN

Ryan Nasher, Engineer for the project, testified that they are proposing to add a small accessory structure to the lot; the building will be 26' x 26' and located on the west side of the existing structure; that there will be a roofed over open area for barbeques; that looking at the plans A-1 is the lower elevation layout; that A-2 will have the kitchen, storage and bathrooms; and A-3 will have the training facilities; that they need two variances to accomplish this build; that the property has three front yards; that they have met the drainage mitigation for the town and have a landscaping and lighting plan.

Robert Ortman testified that presently there is no BBQ area.

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 and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot has three front yards, which is a hardship, and the proposed accessory building is not large or intrusive.
2. The requested front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot has three front yards, which is a hardship, and the proposed accessory building is not large or intrusive.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard and 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 lot has three front yards, which is a hardship, and the proposed accessory building is not large or intrusive. As a community we are fortunate to have so many volunteers to fight fires and affording them a recreational and training space is beneficial to the both the volunteers and the community they serve.
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

NOV 10 2022

11:55 AM

NOV 10 2022

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested front yard and 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 OF ORANGETOWN
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested front yard and side yard variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bonomolo and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye; and Mr. Sullivan, aye, Mr. Bosco was absent. Mr. Quinn recused himself.

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: December 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-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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TOWN OF ORANGETOWN

SIGN SIZE, ILLUMINATION AND LOCATION VARIANCES AS MODIFIED AND ROUTE 303 OVERLAY VARIANCES APPROVED

To: Frohling Signs (Werfen)
711 Executive Blvd Suite G
Valley Cottage, New York 10989

ZBA #22-74
Date: December 7, 2022
Permit #SIGN-1954-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-74: Application of Werfen for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LO District, Section 3.11, Column 5 #11 (One (1) illuminated business sign equal or less than 30 square feet (1 side) or 60 square feet (2 sided) not less than 20 feet from any lot line and not extending more than 18 feet high permitted: One 2- sided monument sign proposed 2.3' from property line, 7' from the property line approved: 158.23 square feet) and from Article XIII. Section 13.10 -B (4) (proposed signage is within Route 303 Overlay District...signage and lighting fixtures shall not be permitted in the Route 303 right-of-way or within the 25' vegetative buffer) for a sign at an existing business. The premises are located at 526 Route 303, Orangeburg, New York and identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 45 in the LO zoning district.

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

Brian O'Connor, Frohling Signs, appeared and testified.

The following documents were presented:

1. Sign plans dated 11/20/20 from Frohling Sign Company (6 pages).
2. Entity Disclosure form.
3. A letter dated December 1, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated November 22, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. No comments at this time reply from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer dated November 23, 2022.
6. No comments at this time reply from Rockland County Highway Department dated 10/31/2022 signed by Dyan Rajasingham.

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 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 Mr. Valentine and carried as follows: Mr. Quinn, aye; Mr. Castelli, aye; Mr. Valentine, aye; Mr. Bonomolo, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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Brian O'Conner, Frohling Signs, testified that Werfen is located at 526 Route 303 on 8.8 acres in the LO zone; that they have been in business in this location since 1977; that they employ 340 employees and they recently did a 40,000 sq. ft. expansion that cost twenty-five million dollars; that the building is 140,000 sq. ft. total; that they now have a second entrance off of Glenshaw Drive and Route 303; that the first entrance will be used for shipping and receiving; that the second or new entrance will be for employees and visitors to the property; that the existing pylon sign is 60 sf. and the new proposed sign is the same size; that they will probably be coming back to ACABOR to add to the existing sign "shipping and receiving" to clearly differentiate the two entrances; the new entrance off of Glenshaw Drive will be for employees and visitors; and the sign on the building is necessary to clearly identify where to enter the building; that they get twenty to thirty visitors a day; that the second pylon sign can be moved back five more feet and be 7' from the property line; that the building sign will not be seen from Route 303.

Mr. Sullivan asked the applicant if the second pylon sign could be moved back an additional five feet from what was initially proposed and the applicant agreed.

The Board discussed the comments from Rockland County Planning regarding the signs and weighed their comments against the testimony about the size of the expansion, the new entrance off of Glenshaw Dive and the number of daily visitors to the site. The fact that the building sign is not visible from Route 303 and is necessary to direct employees and visitors to the new entrance. The Board also acknowledged that the existing pylon sign will most likely be modified to direct shipping and receiving to that entrance, making traffic flow into and out of the site more efficient.

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 size, illumination, height and location within the Route 303 Overlay Zone variances as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The requested pylon sign is approved at 7' from the property, moved back almost an additional five feet from what the applicant initially proposed. The requested building signage on the new entrance will not be visible from Route 303, however is necessary to direct employees and visitors to the new entrance. The existing pylon sign shall be modified to direct shipping and receiving into that entrance of the property, which will increase the efficient flow of traffic onto and out of the property from State Route 303.

TOWN OF ORANGE TOWN
TOWN CLERK'S OFFICE
100 STATE ST. 3RD FL.
ORANGE, N.Y. 10962
PHONE: 845.391.1000

2. Dan Sullivan made a motion, to over-ride comments #1 and # 2 of the Rockland County letter dated December 1, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning; for the following reasons: (1) the second pylon sign as requested is being moved to 7' from the property line, moved back almost an additional five feet from what the applicant initially proposed.; (2) the second pylon sign is directing employees and visitors to a new entrance into the building and the old pylon sign will be refaced with permission from ACABOR as a shipping and receiving entrance; (3) the new building sign is not visible from Route 303 and is necessary to locate the new entrance into the expanded building; (4) these additional signs will increase the efficient flow of traffic from the State Highway onto and out of the site. He also acknowledged that the New York State Department of Transportation was sent a referral on October 24, 2022 and did not respond within the required thirty days; motion was seconded by Patricia Castelli, and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye, and Mr. Quinn, aye. Mr. Bosco was absent.
3. The requested sign size, illumination, height and location within the Route 303 Overlay variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The requested pylon sign is approved at 7' from the property, moved back almost an additional five feet from what the applicant initially proposed. The requested building signage on the new entrance will not be visible from Route 303, however is necessary to direct employees and visitors to the new entrance. The existing pylon sign shall be modified to direct shipping and receiving into that entrance of the property, which will increase the efficient flow of traffic onto and out of the property from State 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 sign size, illumination, height and location within the Route 303 Overlay variances 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 requested pylon sign is approved at 7' from the property , moved back almost an additional five feet from what the applicant initially proposed. The requested building signage on the new entrance will not be visible from Route 303, however is necessary to direct employees and visitors to the new entrance. The existing pylon sign shall be modified to direct shipping and receiving into that entrance of the property, which will increase the efficient flow of traffic onto and out of the property from State 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.

TOWN OF ORANGETOWN
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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 sign size, illumination, height and location within the Route 303 Overlay variances are **APPROVED** as Modified; and **FURTHER RESOLVED**, to override comments #1 and # 2 of the Rockland County letter dated December 1, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning, for the reasons listed above in the findings of facts: 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
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested sign size, illumination, height and location within the Route 303 Overlay variances are APPROVED and FURTHER RESOLVED, to Override comments #1 and # 2 of the Rockland County letter dated December 1, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning for the reasons listed above in the finding of facts; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Bosco was 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: December 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-Ken. L.

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

TOWN OF ORANGETOWN
2022 DEC 14 A 10:11
TOWN CLERK'S OFFICE

SECTION 3.11, COLUMN 5 #3, #4 (D), AND ARTICLE XIII, ROUTE 303 OVERLAY DISTRICT 13.10 B (4) VARIANCES APPROVED

To: Dwight Joyce (Subaru Signs)
2 Joyce Plaza
Stony Point, New York 10980

ZBA #22-75
Date: December 7, 2022
Permit #48056

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-75: Application of Subaru for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 3.11, Column 5 #3 (Business signs with total sign area per establishment not to exceed 15% of the sign wall area; and in no event more than 40 square feet: 297.65 Sq. Ft. proposed) and #4 (D) Sign not attached to a building shall be set back at least 35 feet from the front lot line: proposed setback on Route 303 is 1' and 7' from Erie Street) and from Article XIII, Route 303 Overlay District: Section 13.10 B (4) (Signage shall be permitted within the twenty -five vegetative buffer adjacent to such right-of-way line... 25' setback required with 1-foot setback proposed) for signs at the Subaru Service area. The premises are located at 582 Route 303, Blauvelt, New York and identified on the Orangetown Tax Map as Section 70.14, Block 4, Lot 12 in the CC zoning district.

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

Dwight Joyce, Attorney, and Maximillian Stach, AICP, partner at Nelson, Pope, Voorhis Environmental, Land Use Planning; appeared and testified.

The following documents were presented:

1. Sign Plan dated February 10, 2021 revised 3/12/21 signed and sealed by John R. Atzl L.S. (1 page).
2. Philadelphia Sign plans dated 02/15/2018 with the latest revision date of 10/12/22 (8 pages) not signed or sealed.
3. A letter dated December 2, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated November 22, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. No comments at this time reply from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer dated November 23, 2022.
6. No comments at this time reply from Rockland County Highway Department dated 11/03/2022 signed by Dyan Rajasingham.
7. Planning Report dated February 8, 2022 from Nelson, Pope Voorhis Environmental, Land Use Planning (14 pages) handed in at the Board meeting on December 7, 2022.
8. Twelve 11 x 17 color photos of the immediate area and surrounding businesses with similar signs.

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 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 Mr. Valentine and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Mr. Valentine, aye. Mr. Bosco was absent.

Dwight Joyce, Attorney for the applicant, testified that they need signs to identify the service area for Subaru because customers are having a hard time finding the facility; that it is located behind the convenience store and is difficult to spot from Route 303; that they were before the Planning Board and they addressed the location of the signs prior to this appearance; and he submitted 12 large color photos of signs in the immediate area and the area that the proposed signs would be installed; that the building being located behind the convenience store makes the signage more necessary; that presently people slow down on Route 303 and need to really look to find the service center for Subaru; that once the signs are in place there will be less need to slow down on the State Highway to locate the service area; and that he would request the Board to override comments #1 and #2 of the Rockland County Department of Planning letter dated December 2, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning.

Maximillian Stach, AICP, presented the Board with the Planning report which showed the building is not visible as you are driving south on Route 303 until you almost pass it; that there is a bus shelter, telephone pole and other signs right next to the exit; that the signs would clarify the location and help with traffic flow on Route 9W; that the facility fronts on two public right-of-ways; that building mounted signage is limited by the deli located on the corner and Westshore Plaza; that the elevated pylon sign at the street line is critical for motorists to identify the service facility at a distance from both north and southbound Route 303 motorists.

Dan Sullivan, inquired if the pylon signs could be moved back from the proposed location and after seeing the difference moving the sign would make for visibility, the board agreed to leave them as proposed because they would help keep traffic moving along Route 303 and allow enough time for the passersby to see the service station without impeding traffic; that in this case the proposed signs assist in the efficient traffic flow along the highway.

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. Quinn 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 Section 3.11, Column 5 #3, #4D and Article XIII Route 303 Overlay District 13.10 B(4) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Planning report submitted by Nelson Pope and Voorhis supported the granting of the variances for the signs showing how the signs would increase safe turns off of Route 303 and time to safely identify the service area while driving along the highway.
2. Robert Bonomolo made a motion to over-ride #1 and #2 of the Rockland County letter dated December 1, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning and acknowledged

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that the New York State Department of Transportation was sent a referral on October 24, 2022 and did not respond within the required thirty days; for the following reasons: (1) the pylon signs as requested although close to the property line, cannot be moved back without becoming blocked by other structures and being less visible, negating their purpose; (2) the pylon signs are directing visitors to the entrance to the service area clearly and allowing enough time for a safe turn off the highway without obstructing traffic ; (3) the service center building has installed a nice planted area along Route 303 and is attractive; (4) these additional signs will increase the efficient flow of traffic from the State Highway onto and out of the site. Motion seconded by Tom Quinn, and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Bosco was absent.

3. The requested Section 3.11, Column 5 #3, #4D and Article XIII Route 303 Overlay District 13.10 B(4) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Planning report submitted by Nelson Pope and Voorhis supported the granting of the variances for the signs showing how the signs would increase safe turns off of Route 303 and time to safely identify the service area while driving along the highway.
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 Section 3.11, Column 5 #3, #4D and Article XIII Route 303 Overlay District 13.10 B(4) 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 Planning report submitted by Nelson Pope and Voorhis supported the granting of the variances for the signs showing how the signs would increase safe turns off of Route 303 and time to safely identify the service area while driving along the highway.
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 Section 3.11, Column 5 #3, #4D and Article XIII Route 303 Overlay District 13.10 B(4) variances are APPROVED; and FURTHER RESOLVED, to over-ride that comments #1 and # 2 of the Rockland County letter dated December 1, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning for the reasons listed above in the findings of facts; 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 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.

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

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

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

The foregoing resolution to approve the application for the requested Section 3.11, Column 5 #3, #4D and Article XIII Route 303 Overlay District 13.10 B(4)variance is APPROVED and comments #1 and # 2 of the Rockland County letter dated December 1, 2022 signed by Douglas J. Schuetz, Acting Commissioner of Planning are over-ridden; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye. Mr. Bosco was 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: December 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-Dom. M.

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

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