

MINUTES
ZONING BOARD OF APPEALS
July 5, 2023

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
PATRICIA CASTELLI,
BILLY VALENTINE

ABSENT: ROBERT BONOMOLO, JR.
MICHAEL BOSCO
THOMAS QUINN

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:

DOONAN
6 Kirchner Drive
Tappan, New York
77.08 / 3 / 96; R-15 zone

BOARD DETERMINED NO VARIANCE REQUIRED: SECOND KITCHEN IN SINGLE-FAMILY RESIDENCE PERMITTED ZBA#23-20

LaFAMIGLIA/ LANNI
RESTAURANT OUTDOOR DINING
645 Main Street
Sparkill, New York
77.08 / 5 / 48.1; CS zone

CONTINUED ZBA#23-21

CANCRO
90 Greenbush Road
Tappan, New York
77.10 / 2 / 12; R-15 zone

FRONT YARD AND § 5.21 UNDERSIZE LOT BUILDING HEIGHT VARIANCES APPROVED ZBA#23-22

TOWN OF ORANGETOWN
2023 JUL 11 A 10: 21
TOWN CLERK'S OFFICE

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.

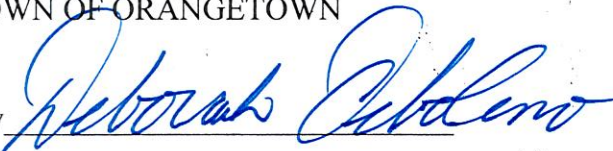
OTHER BUSINESS:

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: Aluf Plastics -Chiller Site Plan, 2 Glenshaw Street, Orangeburg, NY 70.18 / 2 / 15; LI zone; Rockland Country Club Golf Cart Wash Station Site Plan, 597 Route 340, Sparkill, NY 78.09 / 1 / 24; R-80 zone; Orangetown Shopping Center -Dunkin Donuts Pad Site Plan, Amendment to Final Site Plan Approval PB@21-27 April 27, 2022; Orangeburg Road and Dutch Hill Road, Orangeburg, NY 7410 / 1 / 67; CS 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 8:45 P.M.

Dated: July 5, 2023

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
2023 JUL 11 A 10:21
TOWN CLERK'S OFFICE

**BOARD DETERMINED THIS IS NOT A REQUEST FOR A SINGLE-FAMILY
CONVERSION: PERMITTED 2ND KITCHEN IN A SINGLE-FAMILY RESIDENCE**

To: James and Ashley Doonan
6 Kirchner Drive
Tappan, New York 10983

ZBA #23-20
Date: July 5, 2023
Permit #BLDR-3128-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-20: Application of James and Ashley Doonan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, R-15 District, Group M, Section 4.5: (Single family Conversion, Subsection 4.58 (Owner must reside in said dwelling for at least 15 years) to convert a garage into living space at an existing single-family residence. The premises are located at 6 Kirchner Drive, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 3, Lot 96 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 5, 2023 at which time the Board made the determination hereinafter set forth.

James Doonan and John Loughran, father-in-law, appeared and testified.

The following documents were presented:

1. Survey dated November 15, 1966 by Alfred R. Vogt II, L.S..
2. Architectural plans labeled "proposed Renovation for Level I Alteration James & Ashley Doonan" dated April 17, 2023 signed and sealed by Eric Knute Osborne, Architect.

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

James Doonan testified that his brother has autism, that his Dad passed away in 2017 and his Mom passed away last year; that he is his brother's legal guardian; that they are trying to create a living space for him in their home; that his brother works and is high functioning; that he needs a living space of his own that is attached to their space from inside the house; that he and his wife just had a baby; and they have no intention of anyone else living in the space that they are building in the garage for this brother; that he will have access to their living space from the interior of the house.

John Loughran, father-in-law, testified that the garage will be converted to a kitchen/ living space and they are planning to connect that space to an existing bedroom and bathroom on the same level and keep the door to the rest of the house; and that they will bring those revised plans.

Dan Sullivan asked the applicant to mark up plans to show how they plan to connect the existing bedroom and bathroom to the proposed new living/ kitchen area; and stated that this is not a proposal for a single-family conversion; that this is a necessary change to the existing single-family house to accommodate family; and confirmed that James Doonan is the legal guardian for his autistic brother.

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

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. Valentine 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 § 4.5: (Single family Conversion, Subsection 4.58 (Owner must reside in said dwelling for at least 15 years) is not necessary. The Board determined that the applicant is really seeking a second kitchen in an existing single-family residence to accommodate a family member that is his legal ward. The applicants' brother is an adult with autism that needs to have a living space attached to family and the living space is easily accessed from the interior of the house.
2. The applicant also testified that the space is being created for his brother and only his brother and will not be rented out or used for anyone else. Permitting the applicants' brother a private living space within the single-family dwelling is an excellent reason a second kitchen in a single-family residence is permitted.
3. The applicant shall submit revised plans reflecting the changes that were marked up at the hearing.

TOWN OF ORANGETOWN
2023 JUL 11 A 10:21
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 § 4.5: (Single family Conversion, Subsection 4.58 (Owner must reside in said dwelling for at least 15 years) variance is **NOT NECESSARY**; and FURTHER RESOLVED, that the applicant is really requesting a second kitchen in an existing single-family residence for an adult sibling that he is the legal guardian for; 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
2023 JUL 11 A 10:21
TOWN CLERK'S OFFICE

The foregoing resolution to DETERMINE the application for the requested § 4.5: (Single family Conversion, Subsection 4.58 (Owner must reside in said dwelling for at least 15 years) variance is **NOT NECESSARY** that the applicant is really requesting a second kitchen in an existing single-family residence for an adult sibling that he is the legal guardian for;; was presented and moved by Ms. Castelli seconded by Mr. Valentine and carried as follows: Mr. Valentine, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn, Mr. Bosco and Mr. Bonomolo 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: July 5, 2023

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
2023 JUL 11 A 10: 22
TOWN OF ORANGETOWN

**FRONT YARD AND BUILDING HEIGHT (SECTION 5.21 UNDERSIZE LOT)
VARIANCES APPROVED**

To: Jennifer Cancro
90 Greenbush Road
Tappan, New York 10983

ZBA #23-22
Date: July 5, 2023
Permit #BLDR-3206-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-20: Application of Jennifer Cancro for variances from Zoning Code (Chapter 43) of the Town of Orangetown, R-15 District, Group M, Section 3.12, Column 8 (Front Yard: 30' required, 28.5' proposed) and 12(Building Height: 20' permitted 22' proposed) Section 5.21 Undersized lot applies. For an addition to an existing single-family residence. The premises are located at 90 Greenbush Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 2, Lot 12 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 5, 2023 at which time the Board made the determination hereinafter set forth.

Piero Gabucci, Architect and Jennifer Cancro and Pauline Woods appeared and testified.

The following documents were presented:

1. Architectural plans labeled " Cancro Residence" dated 4/17/2023 with a revision dated of 5/18/2023 signed and sealed by Steven B. Lazarus, A.I.A. (3 pages)
2. Computer generated pictures of the house across the street and the house to the right when facing the Cancro house.

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

Jennifer Cancro testified that they are proposing to add a front porch and a second story to the house; that she is expecting a baby in the next couple of months and the house is very small; that it is only 940 sq. ft. and the baby requires a lot of stuff; that she is living with her partner now and having the two incomes affords them the opportunity to do the addition.

Piero Gabucci, Architect, testified that the addition of the front porch encroaches one and a half feet into the front yard setback; that they are proposing a minimal porch that allows a seating area; that the property to the south is a cemetery and the house across the street is set closer to the road.

TOWN CLERK'S OFFICE

2023 JUL 11 A 10:22

TOWN OF ORANGETOWN

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 building height (§ 5.21 undersized lot applies) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested front yard and building height (§ 5.21 undersized lot applies) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . Similar additions have been constructed 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 variances.
4. The requested front yard and building height (§ 5.21 undersized lot applies) 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. . Similar additions have been constructed 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

2023 JUL 11 A 10:22

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 and building height (§ 5.21 undersized lot applies) 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
2023 JUL 11 A 10:22
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard and building height (§ 5.21 undersized lot applies) variances are APPROVED; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Valentine. Mr. Quinn. Mr. Bonomolo 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: July 5, 2023

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
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2023 JUL 11 A 10: 22
TOWN CLERK'S OFFICE