

MINUTES
ZONING BOARD OF APPEALS
July 19, 2023

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
MICHAEL BOSCO
THOMAS QUINN
ROBERT BONOMOLO, JR.

ABSENT: PATRICIA CASTELLI,
BILLY VALENTINE

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:

CHAVES 18 Erie Street Blauvelt, New York 70.14 / 1 / 4; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#23-23
SOUTH ORANGETOWN AMBULANCE 70 Independence Avenue Tappan, New York 74.18/ 3 / 39 & 40; R-15 zone	CONTINUED	ZBA#23-24
FORD 33 REALTY LLC 33 Corporate Drive Orangeburg, New York 73.19 / 1 / 9; CC zone	HEIGHT VARIANCE APPROVED	ZBA#23-25
ONE RAMLAND (1547 CSR) 1 Ramland Road Orangeburg, New York 73.20 / 1 / 24; LIO zone	FLOOR AREA RATIO, FRONT YARD, BUILDING HEIGHT VARIANCES APPROVED LOADING BERTH VARIANCE GRANTED IN ZBA#13-32 ACKNOWLEDGED AND REINSTATED	ZBA#23-26
INTERPRETATION ANTRIM PLAYHOUSE AT THE MANSE BARN 32 Old Tappan Road Tappan, New York 77.10 / 2 / 15; R-15 / CS zone	NO USE VARIANCE REQUIRED: APPLICANT HAS USE BY RIGHT: PRIOR TO ZONING CODE	ZBA#23-27

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 9:45 P.M.

Dated: July 19, 2023

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
2023 JUL 26 A 11:12
TOWN OF ORANGETOWN

TOTAL SIDE YARD VARIANCE APPROVED

To: Manuel Chaves
18 Erie Street
Blauvelt, NY 10913

ZBA #23-23
Date: July 19, 2023
Permit # BLDR-3167-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-23: Application of Manuel Chaves for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, R-15 District, Group M, Section 3.12, Columns 10 (Total Side Yard: 50' required, 40' 4" proposed) for an addition to an existing single-family residence. The premises are located at 18 Erie Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.14, Block 1, Lot 4 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 19, 2023 at which time the Board made the determination hereinafter set forth.

Manuel Chaves appeared and testified.

The following documents were presented:

1. Site plan for Chaves based on survey titled "Survey of the Property of the Briar Construction Corp. in the Town of Orangetown, Rockland Co." dated 1981 prepared by E.C.Getty, P.E., L.S. and signed and sealed by Richard J. Iuele, P.E., dated 8/28.2018 with the latest revision dated of 5/16/ 2023., AIA. (1 page)
2. Architectural plans labeled " Addition and Plan Chaves Residence 18 Erie Street, Blauvelt, NY dated 2/27/2023 signed and sealed by Richard J. Iuele, P.E.(2 pages).
3. Zoning board of Appeals Decision # 18-89 dated December 5, 2018.
4. A letter dated June 30, 2023 from Rockland County Department of Planning signed by Helen Kenny Burrows, Deputy Commissioner for Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated July 18, 2023 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A " No comments at this time" from Dyan Rajasingham, Rockland County Highway Department, dated June 14, 2023.
7. A " No comments at this time , Please send future correspondence for review" from Rockland County Health Department signed by Liz Mello dated July 17, 2023.
8. A hand-written note from Mr. Chaves giving James Hughes permission to represent him at the hearing.

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

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

James Hughes testified that Mr. Chaves would like add an additional bedroom and closet behind his existing garage; that the house is a raised ranch; that the property juts in at that section of the lot and also slopes down Erie Street from left to right and that he will get the bulk table corrected.

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. The requested total side yard variance 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 total side yard variance 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 a variance.
4. The requested total side yard 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. 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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested total side yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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

The foregoing resolution to approve the application for the requested total side yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Ms. Castelli 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: July 19, 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-Dom M.

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

TOWN CLERK'S OFFICE
2023 JUL 29 A 11:13
TOWN OF ORANGETOWN

BUILDING HEIGHT VARIANCE APPROVED

To: Donald Brenner (Ford 33 Realty LLC)
4 Independence Avenue
Tappan New York 10983

ZBA #23-25
Date: July 19, 2023
Permit #BLDC-952-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-25: Application of Ford 33 Realty LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, LIO District, Group CC, Section 3.12, Column 12 (Building Height: 27' 6" permitted 37' proposed) for an addition to the existing building. The premises are located at 33 Corporate Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.19, Block 1, Lot 9 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 19, 2023 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Jordan Cabello, Vice appeared and testified.

The following documents were presented:

1. Plans labeled " Proposed Roof Raise for Ford 33 LLC 33 Corporate Drive, Orangeburg, NY 10962 Section -Block Lot 73.19-1-9" dated 05/17/2023 signed and sealed by Uziah B. Copper Jr. Architect. (7 pages)
2. A memorandum dated July 19, 2023 from Rockland County Department of Planning stating that this application is outside their jurisdiction.
3. A letter dated June 23, 2023 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A " No comments at this time" from Dyan Rajasingham, Rockland County Highway Department, dated June 26, 2023.
5. A " No future correspondence for his site should be sent to this agency" from Rockland County Health Department signed by Liz Mello dated July 17, 2023.
6. A thirteen-page presentation booklet with pictures of buildings with similar height in the immediate area.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco 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. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Mr. Quinn, aye. Ms. Castelli and Mr. Valentine were absent.

Donald Brenner, Attorney, testified that Ford Medical is a medical supply distributor in many aspects of the medical field including equipment and medicines; that since Code the nature of the business and customers' requirements have changed dramatically due to global raw material shortages, labor shortages and logistical disruptions which now requires the company to stock inventory for up to 6 months' supply; that as a result, in order to be able to survive in a viable manor the company must increase their space capacity to meet the inventory needs or their customers; that in order to survive in a sustainable manor and be competitive within the industry they must add automation to the warehouse to meet the customers' shipping requirements; that

the older existing warehouse operated on pallet level 5 of 6 which limits operation and supply; that by raising the roof and installing new automatic equipment the client's storage can double and meet the required need; that since the client is seeking an area variance, the following information will support their request:

1. Whether benefit can be achieved by other means feasible to the applicant: Based on present zoning the only feasible means to satisfy the need is to increase the vertical height of the building;
2. Undesirable change in neighborhood character or to nearby properties: A survey of the area reveals nine building that have vertical heights greater than 41 feet;
3. Whether request is substantial: The increase in height as related to its use is not substantial; the height differential will not overly tax municipal uses, and water, sewer and police protection, will remain the same;
4. Whether request will have adverse physical or environmental effects: Environmentally there is no change; there is no change in land usage or removal of permeable ground surfaces;
5. Whether alleged difficulty is self-created: Ford Medical is a medical supply distributor who needs to keep up with the inventory of its clients and Covid and the problems of the world created this difficulty; and that this is similar to what Clarins and Subaru did.

Mr. Bosco asked what guarantee the Board would have that once the roof is raised that the applicant would actually install the automated equipment.

Jordan Cabelló, Vice President of Operations, testified that the floor plan on the application is based on the present racking system; that they need the permit to change to the new racking system; that in order to stay competitive they must install the automated system; that they operate at 60% now and will be at 100% when upgraded.

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 building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are several buildings in the immediate area with similar heights.
2. The requested building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There shall be no disturbance to the ground or increase in impervious surface. There are several buildings in the immediate area with similar heights.

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 building height 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. There are several buildings in the immediate area with similar heights.
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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested building height variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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


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

The foregoing resolution to approve the application for the requested building height variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; and Mr. Sullivan, aye. Ms. Castelli 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: July 19, 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
DEPT. of ENVIRONMENTAL
MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
2023 JUL 26 A 11:13
TOWN CLERK'S OFFICE

**FLOOR AREA RATIO, FRONT YARD, BUILDING HEIGHT AND LO DISTRICT ,
COLUMN 7 #2 OUTDOOR LOADING BERTH VARIANCES APPROVED**

To: Donald Brenner (One Ramland 1547CSR)
4 Independence Avenue
Tappan, New York 10983

ZBA #23-26
Date: July 19, 2023
Permit #BLDC-002558-2022

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-26: Application of One Ramland Road (1547 CSR-Orangeburg) for variances from Zoning Code (Chapter 43) of the Town of Orangetown, LIO District, Group CC, Section 3.12, Columns 4 (Floor Area Ratio: .40 permitted .23 existing, .45 proposed), 8 (Front Yard: 100' required, 92.7' granted in ZBA#13-32 dated May 15, 2013, 92.8' proposed), 12 (Building Height: 25' permitted 37' existing, 60' proposed) and from LIO District refers to LO District, Column 7 # 2 (Loading Berths shall be within completely enclosed buildings: 4 outdoor loading berths are proposed, granted in ZBA#13-32 dated May 15, 2013 for an addition to the existing building. The premises are located at 1 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 24 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 19, 2023 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Patrick Hynes, Owner, Diego Villareale. Engineer (JMC) and Brian Darcy, P.E. (JMC) appeared and testified.

The following documents were presented:

1. Plans labeled " Preliminary Site Plan Approval Drawings Data Center Building Expansion 73.20-1-23 & 24 Rockland County 1 Ramland Road Town of Orangetown, New York" dated 10/18 with the latest revision date of 05/02/ 2023/2022 signed and sealed by Diego A. Villareale, P.E. (14 pages).
2. Survey dated September 22, 2021 signed and sealed by James G. Scheuermann, L.S..
3. A letter dated July 10, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated June 23, 2023 from Rockland County Sewer District No. 1 signed by Rory Tinston, Engineer I.
5. A letter dated May 30, 2023 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
6. A letter dated July 17, 2023 from Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that 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 June 28, 2023 (as set forth in PB#23-14 One Ramland Road Site Plan) for Preliminary Site Plan approval subject to conditions, 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 Mr. Quinn and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Mr. Bosco, aye; and Mr. Sullivan, aye. Mr. Valentine and Ms. Castelli were absent.

Donald Brenner, Attorney, testified that the application is for an expansion to an existing Data Processing Center; that the project was originally presented to the Zoning Board in 2012 and obtained the necessary variances; that the Planning board granted Final approval in 2012; that there have been some needed modification from the original approval; and that he would turn it over to Diego to explain those.

Diego Villareale, Engineer, testified that the updated drawings are substantially the same as the approved drawings from 2012; that some things have been removed from the drawings; that the site is 23.8 acres on Ramland Road and Blaisdell Road; that the property is zoned LIO and abuts an R-22 residential zone; that the existing buffer is not being changed; that all improvements are with and around the existing building; that access is off Ramland Road at three access points; that the building is gated and access is granted passing security; that the 230,000 sq. expansion is over an existing parking area; that the Data Center use requires less parking; that there were originally 747 parking spaces and that will be reduced to 423 parking spaces; that the generation yard supports the existing building; that the substation was always on the drawing, however it has changed to ground mounted substation with underground delivery and a twelve foot height, therefore no need for the originally proposed wall; that the generators are fully enclosed with sound attenuation; that the water cooled chillers have been removed and replaced with air chillers; that they are maintaining the full 100' buffer and the additional 100' set back and the building is actually around 500' from the nearest residential area; that the floor area ratio went from .30 to .45; that the height request is for 60' and that the reason the variance is required is because height is measured from the street set back and they are permitted three inches per one foot of set back from the street; that they have enough property that they could set the building further back on the lot and not need a height variance but they would rather keep the building further away from the residential zone; that presently the building is about 500' from the nearest residence; that the water cooled chillers are eliminated and the roof top will have air cooled chillers.

Michael Bosco commented that the air chillers also generate noise.

Donald Brenner further testified that this applicant has provided a sound analysis to the Planning Board and they granted the applicant a Neg. Dec. and asked the Board to please override #1 of the Rockland County Department of Planning letter dated July 10, 2023 because Rockland County Planning had the same comment for the Planning Board and they over rode it; that data centers require very few employees and do not negatively impact local roads, sewer system, stormwater management or public water supply.

Patrick Hynes, Owner, testified that they have a tremendous investment in the project; that they appeal to everyone and they have one use at the site that wanted water cooled and now they are pushing toward air chillers.

Public Comment:

No 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 floor area ratio, front yard, building height and LO District , Column7 #2 loading berth variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar variances have granted for other Data Centers in the town.
2. The Board unanimously agreed to override comment #1 of the Rockland County Department of Planning letter dated July 10, 2023 for the following reasons: Data centers require very few employees, they do require security entrances, so they are monitored 24 hours a day, seven days a week. The Board considered whether the proposal before them would increase traffic on local roads, impact negatively on the sewer system stormwater management and the public water supply and unanimously agreed that this use causes less stress on all of those items than most development.
3. The requested floor area ratio, front yard, building height and LO District , Column7 #2 loading berth variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar variances have granted for other Data Centers in the town.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, front yard, building height and LO District , Column7 #2 loading berth 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 variances have granted for other Data Centers in the town.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio, front yard, building height and LO District , Column 7 #2 loading berth variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio, front yard, building height and LO District , Column7 #2 loading berth variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Ms. Castelli 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: July 19, 2023

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

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SUPERVISOR
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TOWN CLERK'S OFFICE
2023 JUL 26 A 04:13
TOWN OF ORANGETOWN

INTERPRETATION: NO USE VARIANCE REQUIRED; PRE-EXISTING NON-CONFORMING USE HAS A RIGHT TO CONTINUE: CHURCH HAS A RIGHT TO LEASE BECAUSE THEY RETAIN OWNERSHIP

To: Donald Brenner (Tappan Reformed Church)
4 Independence Avenue
Tappan, New York 10983

ZBA #23-27
Date: July 19, 2023
Permit # BLDC-3250-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-27: Application of Tappan Reformed Church (Antrim Playhouse at the Manse Barn) for an interpretation from the opinion of the Director of the Building Department from Zoning Code (Chapter 43) of the Town of Orangetown, CS / R-15 District, Section 3.11, Column 2 , Uses permitted by right, #3 : Churches and similar places of worship, Sunday School buildings, parish houses and rectories:, Column 5, General Accessory uses, #10 “ Any other use not inconsistent with the uses permitted herein”; applicant states the property was built in 1935 prior to the Town of Orangetown Zoning Code ; therefor the church has the right to rent the property to a permitted user. The premises are located at 32 Old Tappan Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 2, Lot 15 in the R-15 / CS {the building is in both zoning districts} zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 19, 2023 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Reverend Donald J. Hoover, appeared and testified.

The following documents were presented:

1. Cover letter dated June 16, 2023 from Donald Brenner, Attorney for the applicant.
2. A referral to the Zoning Board of Appeals dated June 5, 2023 signed by Jane Slavin, Director, OBZPAE.
3. A booklet labeled “Tappan Reformed Church Tappan New York Manse Barn Interpretation July 19, 2023” Donald Brenner, P.E., LL.B.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since this application requests your interpretation of an existing code, rule or regulation, this application is exempt from environmental review under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (37); which does not require SEQRA environmental review. The motion was seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Mr. Quinn, aye. Ms. Castelli and Mr. Valentine were absent.

Donald Brenner testified that the Tappan Reformed Church located at 32 Old Tappan Road has a history of providing Playhouse services at its Manse Barn since 1935; that a present user, the Antrim Playhouse , negotiated a lease with the Church to improve the existing facility to provide a safer and more flexible structure; that an application was filed with the Orangetown Building Department to improve the structure on May 9, 2023; that the application was denied on June 5, 2023 and forwarded to the Zoning Board indicating that a “use variance” was required before the structure could be improved; that it appears that the Building Department assumed that the use was not consistent with Church use; that the Church is of the opinion that this is an improper decision and they are entitled to obtain a building permit and start building the improved Playhouse; that the Church has been at this cross road in Tappan for 275 years; that an ancient barn located at the Manse has been used as a makeshift meeting place for many years, however

in April 1935 the Church converted this barn to hall for the benefit of Church services and the community; that the new Manse Barn was dedicated on July 14, 1936 with a Variety Show on its new state; that the facility was to provide clear wholesome recreation for all in the Church and the Community regardless of creed; that in World War II, the Barn, in January 1943 was made available to the U.S.O. to provide services to 3,000 servicemen per month; that the public has used the Playhouse facility since 1936 to the present; that the Church and the Barn were built prior to Zoning in the Town of Orangetown; that the first Zoning Code in the Town was adopted in 1942; and any such non-conforming use may be hereto extended throughout any part of building which was manifestly arranged or designed for such use at time of enactment of the Ordinance; that the Code was revised in 1957 and a Theatre was permitted "As of Right"; that the Code was revised again in 1965 creating a split zone and I believe the intent was to have all the structures in the CS zone and the cemetery in the R-15 zone; that Churches are permitted in either zone CS or R-15 "As of Right"; that the data clearly reveals that the Church opened to the community from 1935 to present; that the Church is the owner of the property; that the Church retains the right to use the Manse Barn for Church events and worship; that income from the lease will provide needed revenue so that the Church can function and provide their services to their parish; that the Code was revised in 1957 and a Theatre was permitted "As of Right" and the Code was revised in 1965 creating a split zone; believed with the intent to have all structures in the CS zone and the cemetery in the R-15 zone;

Public Comment:

Carol Schelin, 215 Washington Street Unit 28, Tappan, NY, testified that she is a fifty year resident of Tappan; that recently , five years, she in living in the Tappan Grammar School Condominium; that she has been a member of TRC (Tappan Reformed Church) for 50 years; that TRC represents 420 years of service here, we predate Orangetown, New York and the USA; TRC provided land for the US Post Office; we provided the triangle park for the Town; the Manse Barn provided space for uncounted public events, including USA activities, public shows, crafts and antique sales; that her deceased husband Bob was a son of Tappan; that after his upstate studies, he cam back with a wife and a PHD; that in the 70's the Schelin family provided much to the TRC, in forms of labor, membership, leadership; there were three members of one family on the covasry, the TRC governance; as the years passed , churches and families change; Bob passed away in February 22; the Manse Barn succumbed to fire in March 22; you can see videos of the fire on You Tube; Tappan Fire Department asisted by many in protecting the building from total loss ; these past two years have been very difficult for our church; we have lost members, we have lost control of our budget and we have lost business agreements; for the good of the Town and our own congregation,, we are asking for your assistance; we had to rebuild the barn as soon as we can to provide a useful and beautiful public space again and thanked everyone.

Mary Cardenas, 66 Pine Tree Lane, Tappan, Orangetown Historian, testified that the Manse and the Manse Barn oddly enough are not on the National or State Register for Historic Structures; that they are included in the Tappan Historic District; that there is an historic marker by the Manse; that the Manse has an interesting history; that the barn was moved in 1910 to its present location; that during the 1920's a section of the barn was made usable for informal meetings and by June 14, 1936 the men of the community had created a modern parish house, complete with assembly hall, stage and dressing rooms, game room and kitchen; that in 1943 the Church permitted the United States Organizations to enlarge and equip the building to serve soldiers from Camp Shanks, this can be verified on page 43 in "Two Hundred and Fifty Years of Service [1694-1955] Book.); that dedication of the Manse Barn was on June 14, 1936 and many of he hand -hewn beams were still in place when they were pegged generations ago (Article from the Journal News June 3, 1936).

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 site inspection of the premises by the member of the ZBA; after hearing and considering all of the testimony from the Applicant's representatives, from the public, and representatives of the public, as summarized above, and after reviewing and considering all the documentation, reports, materials, communications and correspondence submitted to the ZBA, as inventoried above, the ZBA found and concluded that:

The ZBA considered the Applicant's interpretation request for the ZBA to determine whether the determination of Jane Slavin, R.A., Director of the Orangetown Office of Building, Zoning and Planning, Administration and Enforcement (OBZPAE), that the Church requires a variance from Chapter 43, Table 3,11, Column 2, Uses permitted by right, number 3, "Churches and similar places of worship, Sunday School buildings, parish houses and rectories"; Column 5, General accessory uses, number 10, "Any other accessory use not inconsistent with the uses permitted herein": Leasing of School building to a theatre is a commercial use & not consistent with Church Use, ZBA Review/Variance required; Applicant's argument is that the proposal is to continue a pre-existing non-conforming use in the Manse Barn which has existed prior to the adoption of the Orangetown Zoning Code.

The Board found and concluded that the applicant is permitted by right to lease the Manse Barn to the Antrim Playhouse, that the Manse Barn has been in the same ownership since 1729 and used as a playhouse on and off since the 1930's, prior to the existence of the Orangetown Zoning Code. A use variance is not required for the application as presented.

DECISION: On the basis of the foregoing Findings of Facts and Conclusion, and the testimony and documents presented, Thomas Quinn moved that the applicant is permitted to lease the Manse Board as a Playhouse and retain ownership of the Manse Barn to also be used by the congregants of the Church; as presented, which motion was seconded by Mr. Bonomolo and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; and Mr. Quinn, aye. Mr. Valentine and Ms. Castelli were absent for this hearing; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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


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

The foregoing resolution of Interpretation that the applicant is permitted by right to lease the Manse Barn as a Playhouse and retain ownership of the Manse Barn to also be used by the congregants of the Church; the application as presented does not require a use variance was presented and moved by Mr. Quinn, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Ms. Castelli 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: July 19, 2023

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

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