

MINUTES
ZONING BOARD OF APPEALS
February 21, 2024

MEMBERS PRESENT: THOMAS QUINN, ACTING CHAIRMAN
 ROBERT BONOMOLO, JR.
 BILLY VALENTINE

ABSENT: PATRICIA CASTELLI
 MICHAEL BOSCO, CHAIRMAN

ALSO PRESENT: Denise Sullivan, Deputy Town Attorney
 Deborah Arbolino, Administrative Aide
 Katlyn Bettmann, Senior Clerk Typist
 Anne Marie Ambrose, Official Stenographer

This meeting was called to order at 7: 00 P.M. by Mr. Quinn, Acting Chairman.
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

POSTPONED ITEM:

119 FRANKLIN AVE. LLC.
119 Franklin Avenue
Pearl River, New York
68.20 / 2 / 18; RG zone

SPECIAL PERMIT ZBA#24-06
ACKNOWLEDGED,
USE OF SECOND FLOOR
PERMITTED FOR A THREE-BEDROOM
APARTMENT IN THE RG ZONE

NEW ITEMS:

MC GLASHIN
90 West Madison Avenue
Pearl River, New York
68.19 / 4 / 24; RG zone

FRONT YARD, AND ZBA#24-09
§ 9.2 VARIANCES APPROVED

IMPERIAL SPORTS
64 Route 303
Tappan, New York
77.15 / 1 / 42; CS zone

SPECIAL PERMIT EXTENDED ZBA#24-10
FOR TEN YEARS FROM THE
DATE OF THE STAMPED
DECISION

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

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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: Levesque Property Re-subdivision and Site Plan, Critical Environmental Area, work is existing, 11, 13, & 17 Riverview Avenue, South Nyack, NY 66.69/ 1 / 5, 6, & 6.1; R6-8H/R-12H zone; 11 Shadyside Avenue Site Plan-Critical Environmental Area, work is existing, 11 Shadyside Avenue, Upper Grandview, NY , 66.17/ 1/7; R-22 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 8:00 P.M.

Dated: February 21, 2024

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
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TOWN CLERK'S OFFICE

**CONDITIONAL USE PERMIT ACKNOWLEDGED AND USE OF SECOND FLOOR
APPROVED FOR A THREE BEDROOM RESIDENTIAL APARTMENT IN THE RG
ZONING DISTRICT**

To: Donald Brenner (119 Franklin LLC)
4 Independence Avenue
Tappan, New York 10983

ZBA #24-06
Date: February 7, 2024
Permit #BLDC-4322-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-06: Application of 119 Franklin, LLC for variances from Zoning Code (Chapter 43) of the Town of Orangetown, RG District, Section 3.11, Column 4 (allows a conditional use of Medical Arts office, instead of a single-family residence, in a RG district, with a proposed accessory use of an apartment on the second floor); however existing Certificate of Occupancy dated 1984 states "Convert One Family Dwelling to Medical Arts Building NO USE OF SECOND FLOOR". The premises are located at 19 Franklin Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 18 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 7, 2024 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Karl Ackermann, Architect, and Marc Appel, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Building Renovations for 119 Franklin Avenue" dated 10/09/2023 signed and sealed by Karl Ackermann, AIA. (7 pages)
2. Survey dated September 26, 2022 signed and sealed by James G. Scheuermann, L.S..
3. E-mail chain between Denise Sullivan, Deputy Town Attorney and Jane Slavin, Director, OBZPA&E, Town of Orangetown.
4. A letter dated September 25, 2028 from Dennis E. Lynch, Attorney (2 pages)
5. A letter not dated from Michael Manzare, Building Inspector to Dr. & Mrs. Arthur Appel, 119 Franklin Avenue, Pearl River, NY.
6. A letter dated April 30, 2017 from Paul Gdanski, PE, PLLC to Mr. Manzare.
7. Building Permit #45808
8. Certificate of Occupancy dated Oct 9, 1984 for Medical arts building with building permit attachment.
9. Certificate of Occupancy dated October 12, 1984 for a sig,
10. Temporary Certificate of Occupancy for medical arts building dated January 23, 1984
11. Chemical Bank construction loan letter dated January 20, 1984
12. Temporary Certificate of Occupancy for Lou Sagula dated January 12, 1984 hand written no use of second floor.
13. A letter dated December 23, 1982 from Robert L. Hunt, Clerk Zoning Board of Appeals to Linda Appel concerning ZBA Decision #82-67.
14. Building permit dated October 26, 1982 for alterations & addition to existing one family dwelling to convert to medical arts with no use of second floor.
15. Inspection sheet and copy of check.
16. Zoning Board of Appeals Decision #82-67 dated December 1, 1982.
17. Zoning Board of Appeals Decision #83-81 dated December 21, 1983
18. Acabar decision #83-65 dated October 6, 1983. Acabar Decision #83-8 dated February 17, 1983.

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19. A letter dated January 23, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
20. A letter dated February 7, 2024 from Rockland County Sewer District No. 1 signed by Nicolas King, Engineer I.
21. A "No comments at this time, Please send future correspondence for review" from Rockland County Health Department signed by Brandon Durant, Ph.D., Assistant Public Health Engineer, dated January 11, 2024.
22. A letter from Karl Ackermann, Architect to the building inspector explaining the application.
23. Tax map submitted by Donald Brenner showing mixed uses in the immediate area.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Quinn 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. Valentine, and carried as follows: Mr. Bonomolo, aye; Mr. Valentine, aye.; and Mr. Quinn, aye. Mr. Bosco and Ms. Castelli were absent.

Donald Brenner, Attorney, testified that this application was before the Zoning Board in the 80's; that they medical building was approved by special permit; that the decision did not have restrictions but the certificate of occupancy did have a clause for no use of the second floor; that he would like to submit a tax map showing all of the properties in the immediate area that have mixed uses; many with apartments above businesses; that Dr. Appel is no longer practicing and they are looking for a tenant but the building is presently vacant; that they would like to use the second floor to make a three bedroom apartment.

Karl Ackermann, Architect, testified that the current building is used as a commercial building on the first floor, that is 1,870 s.f. and is in the RG zone; that the original use of the building was residential when it was originally constructed; that the owner applied and obtained approval for a doctor's office as allowed by zoning and was approved; that the existing second floor that is 1,050 s. f. was never used as part of the existing prior residence; that the owner now wished to use the existing second floor for a three bedroom apartment and use the existing access stair as the means of egress; that the property and zoning will remain RG; that this property is adjacent to CS zone with multiple properties that have similar conditions; that the proposed apartment space is existing and no volume will be increased, no changes to the exterior are proposed and there is sufficient parking for both uses.

Marc Appel, Dr. Appel's son testified that his father is no longer practicing but when he was in the office, he did not want any one upstairs because he did not want to hear steps while he was treating a patient.

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. Quinn 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 use of the second floor of the existing medical arts building, (granted by Special Permit ZBA#82-67) for a three-bedroom apartment in the RG zoning district will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged that the previous zoning board decision #82-67 does not state that the second floor of the building cannot be used. This language is seen for the first time on the certificate of occupancy that was issued on 10/9/1984; that the property is zoned RG, which is residential zoning, and the applicant has provided a tax map showing many other properties in the immediate area with businesses or professional offices with apartments. The apartment can be constructed within the existing space with no changes to the exterior of the building and the lot has sufficient parking for both uses.
2. The requested use of the second floor of the existing medical arts building, (granted by Special Permit ZBA#82-67) for a three-bedroom apartment in the RG zoning district will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged that the previous zoning board decision #82-67 does not state that the second floor of the building cannot be used. This language is seen for the first time on the certificate of occupancy that was issued on 10/9/1984; that the property is zoned RG, which is residential zoning, and the applicant has provided a tax map showing many other properties in the immediate area with businesses or professional offices with apartments. The apartment can be constructed within the existing space with no changes to the exterior of the building and the lot has sufficient parking for both uses.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a revised certificate of occupancy.
4. The requested use of the second floor of the existing medical arts building, (granted by Special Permit ZBA#82-67) for a three-bedroom apartment in the RG zoning district is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged that the previous zoning board decision #82-67 does not state that the second floor of the building cannot be used. This language is seen for the first time on the certificate of occupancy that was issued on 10/9/1984; that the property is zoned RG, which is residential zoning, and the applicant has provided a tax map showing many other properties in the immediate area with businesses or professional offices with apartments. The apartment can be constructed within the existing space with no changes to the exterior of the building and the lot has sufficient parking for both uses.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN
2024 FEB 27 1:41
PLANNING DEPARTMENT

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested use of the second floor of the existing medical arts building, (granted by Special Permit ZBA#82-67) for a three-bedroom apartment in the RG zoning district, is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested use of the second floor of the existing medical arts building, (granted by Special Permit ZBA#82-67) for a three-bedroom apartment in the RG zoning district, is APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bonomolo and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; and Mr. Valentine, aye. Mr. Bosco and Ms. Castelli 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: February 7, 2024

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
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TOWN CLERK'S OFFICE

FRONT YARD AND SECTION 9.2 VARIANCES APPROVED

To: Tim Bainbridge (McGlashin)
17 Park Street
Harrington Park, New Jersey 07640

ZBA #24-09
Date: February 21, 2024
Permit #BLDR-4253-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-09: Application of Alicia McGlashin for variances from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, RG District, Group Q, Column 8 (Front Yard: 25' required, 13' proposed), and from Section 9.2 (Degree of Non-Conforming Bulk not to be increased) for an addition to an existing single-family residence. The premises are located at 90 West Madison Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 4, Lot 24 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 21, 2024 at which time the Board made the determination hereinafter set forth.

Dominic McGlashin appeared and testified.

The following documents were presented:

1. Architectural Plans labeled " Residential Addition & Renovations for Mr. & Mrs. D McGlashin" dated 10/26/2023 signed and sealed by John J. Gilchrist, AIA. (4 pages)
2. ZBA Decision #96-08 dated January 17, 1995.
3. A letter dated February 5, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated January 26, 2024 from Rockland County Health Center for Environmental Health signed by Brandan Duran, Assistant Public Health Engineer.
5. A letter dated February 21, 2024 from Rockland County Sewer District No. 1 signed by Nicolas King, Engineer I.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Quinn 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. Valentine and carried as follows: Mr. Bonomolo, aye; M. Quinn, and Mr. Valentine aye. Mr. Bosco and Ms. Castelli were absent.

Mr. McGlashin testified that his family moved up to Pearl River from Brooklyn eight years ago; that the house felt large when they first moved in, after coming from an apartment, however, eight years later with two growing boys it no longer feels large; that they are proposing an addition to add to the living space on the first floor and bedroom space on the second floor; that the addition does not change the existing front yard setback; and that no neighbors have objected to the plan.

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

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. Quinn made a motion to close the Public Hearing which motion was seconded by Mr. Bonomolo and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard and § 9.2 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 § 9.2 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
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 § 9.2 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.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN
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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 front yard and Section 9.2 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

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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard and Section 9.2 variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Valentine and carried as follows: Mr. Bonomolo, aye; Mr. Valentine, aye; and Mr. Quinn, aye. Mr. Bosco and Ms. Castelli 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: February 21, 2024

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
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TOWN CLERK'S OFFICE

RENEWAL OF SPECIAL PERMIT GRANTED FOR TEN YEARS FROM THE DATE OF THIS STAMPED DECISION

To: Daniel D. Kim, Esq. (Imperial Sports)
64 Route 303
Tappan, New York 10983

ZBA #24-10
Date: February 21, 2024
Permit # No permit #

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-10: Application of Imperial Sports for a Renewal of a Special permit that was granted in ZBA#18-90: Application of Imperial Sports for a Renewal of a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 3.11, Column 3 #8 (Other retail /Services: Karaoke Room and Kitchen) which has been in existence since 11/01/2016 and the applicant is requesting a renewal as required by Certificate of Occupancy #41860. The premises are located at 64 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 42; in the CS zoning district. (Decision stamped January 22, 2019)

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 21, 2024 at which time the Board made the determination hereinafter set forth.

Daniel Kim, Attorney, and Adrian Lim, applicant, appeared and testified.

The following documents were presented:

1. Egress Plan dated 10/25/2009 by Se Hwan Kim, Architect (1 page).
2. ZBA Decision #18-90 dated December 5, 2018 and January 2, 2019.
3. A letter dated February 8, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A "this project is out the jurisdiction of this agency and has no further comments" from Dyan Rajasingham, Rockland County Highway Department, dated January 29, 2024.
5. A letter dated February 16, 2024 from Rockland County Center for Environmental Health signed by Brandon Durant, Ph.D., Assistant Public Health Engineer.
6. A parking plan labeled "Parking Lot Improvement Plan dated September 4, 2013 signed and sealed by James A. Feury, P.E. reference from ZBA#18-90 dated January 2, 2019.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Quinn 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. Bonomolo, aye; and Mr. Valentine, aye. Ms. Castelli and Mr. Bosco were absent.

Daniel Kim, Attorney for the applicant, testified that he was before the Board five years ago to extend the Special Permit for Karaoke and kitchen services at 64 Route 303, Tappan; that there have been no changes to the parking lot; that the applicant would like to attract more customers; that all of the rooms are sound proof; that there have not been any incidents that would warrant police involvement; and that he would like to request that the special permit be extended for ten years.

TOWN OF ORANGETOWN
FEB 21 2024
11:11 AM

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. Quinn 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 renewal of Special Permit that was granted in ZBA#18-90 for the continued use of the Karaoke Room and Kitchen that has existed without incident since November 1, 2016 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Special Permit is being granted for ten years from the date of issuance of the certificate of occupancy with hours of operation limited until 2 A.M. weekdays and Friday and Saturday nights.
2. The applicant provided a parking table when the Special Permit was renewed in ZBA#18-90 Decision stamped January 22, 2019 that illustrated sufficient parking is being provided for the additional uses.
3. The requested renewal of the Special Permit as conditioned will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Special Permit is being granted for ten-years from the date of this stamped decision with hours of operation limited until 2 A.M. weekdays and Friday and Saturday nights.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a renewal of the Special Permit.
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 renewal of the Special Permit.
6. The proposed use will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
7. The proposed use will not cause undue traffic congestion or create a traffic hazard and will not create at any point of determination set forth in §§4.16, 4.17 & 4.18 any more dangerous and objectionable elements referred to in §4.11 than is characteristic of the uses expressly permitted as of right in the same district.
8. The proposed use will not adversely affect the character of or property values in the area and it will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the town.

TOWN CLERK'S OFFICE

2024 JAN 22 PM 3:55

TOWN OF ORANGETOWN

9. The proposed use will comply with all other regulations applicable to such use and the drainage for the site will not be affected by the issuance of the Special Permit.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Special Permit renewal is GRANTED FOR TEN YEARS FROM THE DATE OF THIS STAMPED DECISION; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
2024 FEB 27 P 1:42
TOWN CLERK'S OFFICE

Imperial Sports Special Permit Renewal

ZBA#24-10

Permit #N.A.


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The foregoing resolution to approve the application for the requested extension of the Special Permit that was originally granted in ZBA#18-90 dated January 2, 2019 is granted for TEN YEARS FROM THE DATE OF THIS STAMPED DECISION; was presented and moved by Mr. Bonomolo, seconded by Mr. Valentine and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; and Mr. Valentine, aye. Mr. Bosco and Ms. Castelli 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: February 21, 2024

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-Liz for renewal

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

TOWN OF ORANGETOWN
2024 FEB 27 P 1:42
TOWN CLERK'S OFFICE