

MINUTES
ZONING BOARD OF APPEALS
February 5, 2025

MEMBERS PRESENT: MICHAEL BOSCO, CHAIRMAN
 PATRICIA CASTELLI
 THOMAS QUINN

ABSENT: BILLY VALENTINE
 ROBERT BONOMOLO, JR.
 ANTHONY DEROBERTIS, ALTERNATE

ALSO, PRESENT: Denise Sullivan, Deputy Town Attorney
 Katlyn Bettmann, Administrative Aide
 Anne Marie Ambrose, Official Stenographer

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

<u>APPLICANTS</u>	<u>PUBLISHED ITEMS</u> <u>DECISIONS</u>
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CONTINUED ITEM:

WYMAN FISHER FUNERAL HOME/ DAVID FISHER 96-100 Franklin Avenue Pearl River, New York 68.20 / 2 / 70; CS - zone	REAR YARD, § 9.2, AND § 9.34 AS MODIFIED VARIANCES APPROVED	ZBA#25-01
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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 7:15 P.M.

Dated: February 5, 2025

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Katlyn Bettmann, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN OF ORANGETOWN
2025 FEB 11 P 1:43
TOWN CLERK'S OFFICE

DECISION
REAR YARD, § 9.2, AND § 9.34 AS MODIFIED VARIANCES APPROVED

To: Bart Rodi (Wyman Fisher Funeral Home/David Fisher)
234 S. Grant Avenue
Congers, New York

ZBA #25-01
Date: January 15, 2025 & February 5, 2025
Permit # BLDC-3300-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 25-01: Application of Wyman Fisher Funeral Home/David Fisher, for variances from Zoning Code (Chapter 43), CS District, table 3.12, Column 11 (Rear yard: 25', with 2.7' proposed (to new one-story addition), 1.1' proposed (to West side 2nd story addition), & .5' proposed (to East side 2nd story addition)), from Section 9.2 (Expansion of non-conforming bulk), and from Section 9.34 (Non-conforming use shall not to be extended) for an addition to the rear residence of a single-family dwelling. The premises are located at 96-100 Franklin Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 70 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, January 15, 2025 and February 5, 2025 at which time the Board made the determination hereinafter set forth.

At the January 15, 2025 meeting:

Bart Rodi, Engineer, David Fisher, Owner, and Chris Vergine, Son, Employee and Neighbor appeared and testified.

The following documents were presented:

1. Site plans & details, labelled Wyman Fisher Funeral Home, with the most recent revision date of October 16, 2024, signed and sealed by Bart M. Rodi, L.P.E. (1 page).
2. As-built plans & proposed elevations, labelled Wyman Fisher Funeral Home, with the most recent revision date of April 22, 2024, signed and sealed by Bart M. Rodi, L.P.E. (1 page).
3. Preliminary floor plans, labelled Wyman Fisher Funeral Home, with the most recent revision date of October 3, 2024, signed and sealed by Bart M. Rodi, L.P.E. (1 page).
4. Survey dated April 10, 2015 signed and sealed by Robert R. Rahnefeld, P.L.S..
5. A Short Environmental Form sign on February 24, 2024.
6. A letter dated January 7, 2025 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A letter dated November 19, 2024 from Rockland County Highway Department, signed by Dyan Rajasingham, Engineer III.
8. A "comments attached, to be provided before hearing" from Rockland County Department of Planning signed by Jake Palant dated November 21, 2024.
9. An email dated December 19, 2024 from Orange and Rockland Utilities, Inc, from Alfred Gaddi, P.E.
10. A letter dated January 13, 2025 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer II.

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

At the January 15, 2025 meeting:

Bart Rodi, Engineer, testified that Wyman Fisher Funeral Home has existed for many years; that the building and the property are preexisting to the Town of Orangetown Zoning Code; that David Fisher has owned the home since 1952; that he and his family are now residing at the property full time; that he would like to make it larger to make room for his children and grandchildren for the when they visit;

that they are able to keep the variance under the fifty (50%) percent and still have the same living space; that it is his understanding that the deck is being counted the number of the percentage and that is why he is going over; that for this reason they felt that it would be acceptable to go over the fifty (50%) percent; that this is a unique situation; that the neighbor who is sitting at the table has no objections and the other neighbor was just at this meeting; that there is zero net drainage; that this was reviewed by The Town of Orangetown Department of Environmental Engineering Bruce Peters with the impervious calculations included; that due to the shed being removed there will be thirty-six (36 S.F.) square feet of impervious surface removed; that if they need to they can put rubber pads on the roof and use the roof instead but that is an odd look; that the funeral home uses the parking lot so the homeowner needs to have the bays for the garage, and all of the garage doors are the same size;

The Board Chairman advised that the Board had never granted a §9.34 variance over 50%.

Bart asked if the Board could take the next applicant in order to review the plans with the homeowner. To which the Board agreed.

Bart Rodi testified that after speaking with the owner there are two separate reasons for this deck to be built; that to the side of the building is very steep; that this is also their only outdoor area and can be used as an emergency area; that there is a way for them to recalculate the square footage to go under and make this a wide walkway to the stairs for an emergency route; that this however would remove the recreational area that the owner had desired;

The Board went into Executive session for legal counseling from 8:12pm to 8:22pm. Upon returning the Board recommended that the Applicants request a continuance to the February 5th meeting. The Board would seek clarification from the Building Department Director on the calculations of the floor area ratio. The Applicant agreed, and request a continuance.

At the January 15, 2025 meeting:

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.

At the February 5, 2025 meeting:

ZBA# 25-01: Application of Wyman Fisher Funeral Home/David Fisher, for variances from Zoning Code (Chapter 43), CS District, table 3.12, Column 11 (Rear yard: 25', with 2.7' proposed (to new one-story addition), 1.1' proposed (to West side 2nd story addition), & .5' proposed (to East side 2nd story addition)), from Section 9.2 (Expansion of non-conforming bulk), and from Section 9.34 (Non-conforming use shall not to be extended) for an addition to the rear residence of a single-family dwelling. The premises are located at 96-100 Franklin Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 2, Lot 70 in the CS zoning district.

Bart Rodi, Engineer, David Fisher, Owner, and Ronald Bolte, representative for the Funeral Home, appeared and testified.

The following documents were presented:

1. A letter dated January 28, 2025 from the Office of Building, Planning, Zoning, Administration and Enforcement, signed by Jane Slavin, RA Director.

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

At the February 5, 2025 meeting:

Bart Rodi, Engineer, testified that he revised the latest drawing; that the drawing that he has with him for this meeting will not exceed fifty (50%) percent floor area ratio and does not change any other variance previously requested; that the shed to the South West side of the property is being removed; that they have eliminated two (2') feet from the lower level design layout and six (6') feet from the upper level design layout; that they have refigured the layout and make the deck bigger since the deck does not count in the percentage of floor area ratio; that the updated calculations for the existing first floor are one thousand four hundred twenty three point thirty three (1,423.33 S.F.) square feet; that the updated calculations for the existing second floor are six hundred and thirty two (632 S.F.) square feet; that the updated calculations for the total existing are two thousand fifty five (2,055 S.F.) square feet; that the updated calculations for the new first floor are one thousand seven hundred and seven point seventy two (1,707.72 S.F.) square feet; that the updated calculations for the new second floor are one thousand three hundred seventy two point twenty eight (1,372.28 S.F.) square feet; that the updated calculations for the total new are three thousand eighty (3,080.00 S.F.) square feet; that the total added will be one thousand twenty four point sixty seven (1024.67 S.F.) square feet; that the percentage increase to the residence is forty nine point eighty five (49.85%) percent; that as they now have modified their plans and are under the fifty (50%) percent of floor area ratio they would be conforming to the letter from Rockland County Planning and will not need an override from the Zoning Board.

Chairman Bosco asked Mr. Rodi to sign the and submit the revised plans to the record. To which Mr. Rodi agreed.

The Board agreed that as the Applicant has reduced the floor area ratio to under fifty (50%) percent they were compliant with section 9.34 and therefore did not require an override of the GML Review Letter of Rockland County Department of Planning.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Chairman Bosco 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 September 25, 2024 (as set forth in PB #24-43) 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 Ms. Castelli and carried as follows: Chairman Bosco, aye; Ms. Castelli, aye, and Mr. Quinn, aye. Mr. DeRobertis, Mr. Valentine, 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.

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

Chairman Bosco 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 rear yard, § 9.2, and § 9.34 as modified variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Applicant is removing the shed to the South West side, and was able to reduce the floor area ratio percentage to under fifty percent.
2. The requested rear yard, § 9.2, and § 9.34 as modified variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Applicant is removing the shed to the South West side, and was able to reduce the floor area ratio percentage to under fifty percent.
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 rear yard, § 9.2, and § 9.34 as modified variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Applicant is removing the shed to the South West side, and was able to reduce the floor area ratio percentage to under fifty percent.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, 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 rear yard, § 9.2, and § 9.34 as modified 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.

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

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

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

The foregoing resolution to approve the application for the requested rear yard, § 9.2, and § 9.34 as modified variances are APPROVED; was presented and moved by Chairman Bosco, seconded by Ms. Castelli and carried as follows: Chairman Bosco, aye; Ms. Castelli, aye, and Mr. Quinn, aye. Mr. DeRobertis, Mr. Valentine, 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: February 5, 2025

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By



Katlyn Bettmann
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-Mike M.

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

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