

DECISION

FRONT YARD, SIDE YARDAS MODIFIED(8.8' RATHER THAN 7' 2 ½"), REAR YARD, AND SECTION 5.227 VARIANCES APPROVED WITH A CONDITION.

To: Ara Gallagher
43 W. Lewis Avenue
Pearl River, New York

ZBA #24-49
Date: October 16, 2024
Permit # BLDR-4680-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

^{49 KB 6/19/25}
ZBA#24-48: Application of Brendan Gallagher, for variances from Zoning Code (Chapter 43), RG District, Section 3.12, Group Q, Column 9 (side yard: 10' required, 7' 2- ½" proposed), Column 11(rear yard: 25' required, 19' 9-1/2" proposed) for an addition at a single-family residence. The premises are located at 43 W Lewis Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.12, Block 1, Lot 43 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, October 16, 2024 and May 21, 2025 at which time the Board made the determination hereinafter set forth.

Ara and Brendan Gallagher, homeowners, appeared and testified.

The following documents were presented:

1. Architectural plans, Gallagher Residence dated July 30, 2024 signed and sealed by Joseph Martin, R.A. (3 pages).
2. Survey dated October 27, 2003 signed by Robert E. Sorace, P.L.S..
3. A letter dated September 23, 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" signed by Dyan Rajasingham, Rockland County Highway Department, dated September 3, 2024.
5. A "No future correspondence for this site should be sent to this agency. Plans reviewed and this agency does not have any further comments" from Veolia signed by Bill Prehoda dated October 10, 2024.
6. A letter dated October 16, 2024 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer I.
- 7.

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

Brendan Gallagher, homeowner, testified they originally received approval for these variances in 2015; that they were not able to implement the variances at that time; that they are now able to move forward and wanted to renew the existing approvals; that upon seeking this renewal they were instructed to apply for a renewal of the variances and told that they would need to revisit the process with the Board; that there is a change from the originally approved plans; that prior the bedroom was a small addition which they would like to make a large more viable bedroom, on the West side, in this approval; that the other rooms are a dining room and living room; that they have been in their home for twenty-one years and have never had a meal at a dining room table with their family, unless it is outside; that they have four children varying in age from twenty-eight to thirteen; that he would like to ask for a continuance to have a surveyor come out get everything straightened out.

Ms. Castelli asked if the plans have changed from the prior approved plans, will the variances also need to be revised?

Brendan Gallagher responded that the height will not change, the ridgeline is continuing; Chairman Bosco stated that the height variance approved at the time was for fifteen point six, however the current bulk table provided states that the nineteen feet and eight inches.

Denise Sullivan, Deputy Town Attorney, pointed out that in the prior approval the above addition was to be allocated as storage.

Mr. Valentine pointed out that according to the bulk table it says that they can be up to twenty feet.

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Chairman Bosco stated that when he visited the property there was a large accessory structure on the property, on the Railroad Avenue side, which is not shown on the drawing. That looking at this shed without proper measurements it looks like it may almost be two-stories tall, and this is high in comparison to a typical shed. He also stated that there are several fences located on the property including in the front yard, a garden in the front yard. That there are two openings onto two roads, while you should only be permitted to have one driveway, and that twenty-foot width is typically the maximum permitted. There is also a hot tub which exists less than five feet from the property line, and none of these items are on the drawings provided.

Brendan Gallagher responded that as this is the greatest steep in the location of the shed, this was built up on sono tubes.

Mr. Valentine asked if a second driveway requires a variance?

Chairman Bosco stated that it is also a stone driveway.

Denise Sullivan, Deputy Town Attorney, asked how high the fences that Chairman Bosco had referenced?

Brendan Gallagher stated that the fences are six feet high, open air fences on most of the property; that the fence on the front of the property is lattice; that he also has shadowbox fence in the back which is five feet high.

Chairman Bosco stated that they need the measurement from the second step. That this would be the actual front yard variance measurement.

Brendan Gallagher stated that the floor height is remaining the same and the grade is remaining approximately the same; that currently it is one step up and into the front door; that the updated stoop will have an addition of two rises;

Chairman Bosco stated that it would then be from the stoop as the measurement.

Brendan Gallagher responded that the front door is setback and the stoop stays in line.

Chairman Bosco stated that on the plans it is shown as a bump out.

Brendan Gallagher stated that it can be taken out because the roofline does not change, and that the fascia will be lineup.

Mr. Valentine stated that he does not have any concerns with the requested variances. However, it seems that their concerns are based on items the Board is seeing across the property that may or may not need variances; He also asked Denise Sullivan, if this is something that needs to be addressed; that if they approve the requested variances are they passively approving the other items that may have triggered a variance?

Denise Sullivan, Deputy Town Attorney, stated that should have been addressed at the time that a Building Inspector visited the property, and that the applicant could ask for a continuance and take this back to the building inspector for review of what is existing on the property.

Mr. Valentine advised the applicant that it would be best to get an accurate survey, and provide this to the Building Inspector, for clarity on the required variances for approval of all items existing and proposed.

Chairman Bosco agrees that having everything put onto the survey would be best.

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 May 21, 2025 meeting:

Members present: Michael Bosco, Chairman, Rob Bonomolo, Trish Castelli, Billy Valentine, Anthony DeRobertis, Tom Quinn was absent.

Also present: Denise Sullivan Esq., Deputy town attorney, Anne Marie Ambrose, Official stenographer, Katlyn Bettmann, Administrative Aide.

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ZBA#24-49: Application of Brendan Gallagher, Owner, for variances from Zoning Code (Chapter 43), RG District, Section 3.12, Group Q, Column 8(Front yard: 25' required, with 23' 10-3/4" proposed), Column 9 (side yard: 10' required, 7' 2- 1/2" proposed), Column 11(rear yard: 25' required, 18' 10-3/4" proposed). From Section 5.227(Accessory structures allowed inside and rear yards, with front yard proposed), and from Section 5.227(Accessory structures in side yard side yard setback: 5' required, with 3.9' proposed) for additions, a shed, and a hot tub at an existing single-family residence. The premises are located at 43 W Lewis Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.12, Block 1, Lot 43 in the RG zoning district. R-15 District, Group M, Section 9.2 (Expansion of non-conforming bulk) for a hot tub addition to an existing pool that was approved in ZBA#77-12 at an existing single-family dwelling. The premises are located at 43 W Lewis Avenue, New York and identified on the Orangetown Tax Map as Section 68.12, Block 1, Lot 43, in the R-15 zoning district.

Ara and Brendan Gallagher, homeowners, appeared and testified.

The following documents were presented:

1. Land Survey labelled "Proposed Addition", with the most recent revision date of November 20, 2024, signed and sealed by Robert E. Sorace, P.L.S..
2. Architectural Plans dated February 4, 2025, signed and sealed by Joseph Martin, R.A. (3 pages).
3. A letter dated May 12, 2025 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A "comments attached" letter, dated April 22, 2025, from Rockland County Department of Planning signed by Jake Palant.
5. Three color computer-generated pictures submitted by the applicant's neighbor.

At the May 21, 2025 hearing, Chairman Bosco, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo and carried unanimously.

At the May 21, 2025 meeting:

Brendan Gallagher, homeowner testified that previously appeared in the fall; that at the last Board meeting they asked for a continuance to update their survey with all of the existing property conditions; that they worked with the Building Department to update their drawings and their denial; that they have an existing hot tub; that they also installed a shed thinking that this would ok, however due to them being on a corner lot it was not clear to him what the rear yard and side yard are defined as; that they started this process in February of last year, 2024; that this is a single story addition consisting of a dining room and living ; that they have been in the house for over twenty years and haven't had a meal inside their house at a table; that it would be nice to get a dining room table; that the addition on the side is to make the last of the bedrooms a viable bedroom; that currently his mom is living with them for now and he believes moving out soon; that he would like to make the house suitable for the family that they have; that he does have a garage, but that it is underneath the house; that he has a fence in the back yard; that he is unsure of the setback from his neighbors house to his back fence; that his view from the back is the neighbors side of the house; that this neighbor also has a driveway parallel to his on Railroad Avenue and another driveway on another road; that the front of this neighbors house faces Railroad Avenue; that the shed is a new shed, and there was no other location for him to place the shed; that he has spoken to all of his neighbors; that the neighbor to our North has no issues with the proposed work; that the neighbors to the East are present at this meeting; the neighbors to the South he spoke with and they also had no issues with the proposed; that it is not good for him to give up square footage, as he is dealing with a small house; that if the neighbor is concerned with the side yard setback, he is willing to split the difference and feels that he can still fit a decent dining room in the room; that instead of the addition coming out to eighteen feet he can come out to the sixteen foot six inch; that would give him sixteen feet of clearance and he would be able to fit an eight foot table in, and he feels that an eight foot table is reasonable; that if fire is the main concern of his neighbor that they were contemplating doing their siding so they could do hardiplank siding which is a fire retardant siding; that the side yard setback will be reduced by one foot six inches; that it seems reasonable to reduce the variances if the neighbors have valid concerns;

Ara Gallagher testified that the neighbor at their rear yard also has two front yards;

Trish asked if the existing shed is a sauna?

Brendan Gallagher responded that it could be; that as of right now it is just a shell, but that ideally, he would like it be a sauna.

Trish asked about the updated survey as it says that the proposed measurement is twenty-five point seven (25.7') feet as the front yard measurement.

Brendan Gallagher responded that the measurement was updated to twenty-three point nine (23.9') feet because it is to the step.

The Board reviewed the drawings and confirmed that this information was not updated on the Survey, although does show on the plans.

The front yard on West Lewis is twenty-three point nine feet (23.9') feet to the step, and the shortest point of front yard is on Railroad Ave which is twelve point seven (12.7') feet.

That the side yard is designated to be on the East side, and the Rear yard is designated to be on the North side.

Chairman Bosco stated that we do not typically grant variances for accessory structures in front yards, however you have two front yards.

Mr. Valentine asked the applicant if across the street from them is the train tracks? No homes or houses? And that is the side of the house that the shed is on, correct?

He also stated that this is not our standard front yard, as of in having neighbors across the street.

Brendan Gallagher responded that this is correct, across from them is the railroad tracks.

Chairman Bosco stated that the survey will need to be updated to reflect the distance to the step and match the drawings; that on the drawings it says twenty-three feet and nine inches; that it will no longer be the twenty-five feet seven inches, it will be now be twenty-three feet nine inches on the bulk table;

Brendan Gallagher stated that the survey came back and then the plans were revised, that the measurement was originally done to the house and then it was requested for the measurement to be to the step.

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

Public Comment:

Michael Natirboff, 39 West Lewis Ave, Pearl River testified that he sees that the variance requested is for seven (7') feet and that ten (10') feet are required; that his concern is fire safety; that he has a family member who resides on Griffin Place, presented pictures, and the siding melted because of lack of spacing, and their distance was further apart; that his house is offset and not centered on his property a third more to the left than the center; that his back yard is to the right of his house; that if they move their house up to seven (7') feet from the property line, and he moves his house seven (7') from his property line there will be fourteen (14') feet between the two houses; that when you have high winds and having a building so close it becomes a safety concern; that by doing this addition it will bring the houses closer together; that he also provided photos of his side of the house showing how close his house is to the property line, which is approximately twenty feet;

Michael Healy, 40 Lewis Avenue, Pearl River testified that he is the neighbor diagonally across from the applicants; the he has known them for a long time since he has lived here; that their property is always well kept; that he has no issues with the requested variances and extension.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard, side yard as modified (8.8' rather 7'2 1/2"), rear yard, and Section 5.227 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions exist in the neighborhood. The applicant has two front yards which does create some difficulty. The applicant reduced their requested variance due to their neighbor's safety concerns.
2. The requested front yard, side yard as modified (8.8' rather 7'2 1/2"), rear yard, and Section 5.227 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions exist in the neighborhood. The applicant has two front yards which does create some difficulty. The applicant reduced their requested variance due to their neighbor's safety concerns.
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, side yard as modified (8.8' rather 7'2 1/2"), rear yard, and Section 5.227 variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions exist in the neighborhood. The applicant has two front yards which does create some difficulty. The applicant reduced their requested variance due to their neighbor's safety concerns.
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 front yard, side yard as modified (8.8' rather 7'2 1/2"), rear yard, and Section 5.227 variances are **APPROVED AS MODIFIED WITH A CONDITION**; and **FURTHER RESOLVED**, with the Specific Conditions (1) that a revised survey and plans will need to be submitted to show the updated measurement of the side yard variance, 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.

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(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 front yard, side yard as modified (8.8' rather 7'2 1/2"), rear yard, and Section 5.227 variances are APPROVED AS MODIFIED WITH A CONDITION; and FURTHER RESOLVED, with the Specific Conditions (1) that a revised survey and plans will need to be submitted to show the updated measurement of the side yard variance was presented and moved by Ms. Castelli, seconded by Mr. Bonomolo and carried as follows: Chairman Bosco, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Ms. Castelli, aye; Mr. DeRobertis, aye. Mr. Quinn was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: May 21, 2025

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Katlyn Bettmann
Administrative Aide

DISTRIBUTION:

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- ZBA MEMBERS
- SUPERVISOR
- TOWN BOARD MEMBERS
- TOWN ATTORNEY
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TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

SPECIAL PERMIT FOR OUTDOOR DINING APPROVED WITH CONDITIONS

To: Sean Quinn (LaFamiglia)
127 River Road
Grandview, New York 10960

ZBA #23-21
Date: July 5, 2023, April 16, 2025, & May 21, 2025
Permit #BLDC- 655-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-21: Application of LaFamiglia/Lanni Restaurant for a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown, CS District, Section 3.11, Column 7, No. 1, "same as R-80". R-80 Column 7, #6, "all restaurants shall be within completely enclosed buildings, unless by Special Permit of the ZBA: applicant is proposing outdoor dining at an existing restaurant. The premises are located at 645 Main Street, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 48.1 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 5, 2023, April 16, 2025, & May 21, 2025 at which time the Board made the determination hereinafter set forth.

At the July 5, 2023 meeting:

Donald Brenner, Attorney, Jonathan Hodash, Architect, Sean Quinn, property owner, Vittorio Lanni and Kimberly Auth Lanni, restaurant owners, appeared and testified.

The following documents were presented:

1. PB Decision # 23-08 Preliminary Site Plan Approval Neg. Dec.
2. A memorandum dated April 19, 2023 from Jane Slavin, RA, Director, Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown.
3. Entity Disclosure Form.
4. Architectural plans dated August 4, 2022 with the latest revision date of May 31, 2023 labeled "LaFamiglia Lanni Inc." Cover sheet, A3a seating plan, last revised March 3, 2023 and SP Enlarged Site Plan Detail; all signed and sealed by Jonathan Hodash, Architect.
5. An email chain from Jane Slavin to the property owner and restaurant owners with replies.
6. Two color computer-generated pictures of the driveway and wall submitted by applicant.
7. A letter dated June 22, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
8. A letter dated July 5, 2023 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
9. A "No comments at tis time" from Rockland County Fire & Emergency Services Chris Kear dated 6/6/2023.
10. Six color pictures of the driveway, parking and wall submitted by Paula Heitman, 7 Union Street, Sparkill, NY.

At the July 5, 2023 hearing, Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on April 26, 2023 (as set forth in PB#23-08) for Preliminary Site Plan approval subject to Conditions, rendered an environmental determination that no significant adverse environmental impacts would result from the proposed land use actions (i.e. a "Negative Declarations" or "Neg. Dec") the ZBA is bound by the Planning Board's Negative Declaration and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Valentine, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bonomolo, Mr. Bosco and Mr. Quinn were absent.

At the July 5, 2023 meeting:

Donald Brenner, Attorney, testified that they were specifically sent to the Zoning Board by the Planning Board for the special permit for outdoor dining before they can get final approval from the Planning Board; that in the meantime they applied for temporary outdoor dining and for safety reasons started to construct the temporary wall for safety reasons, to stop cars from getting near the outdoor tables; that they did get a stop work order and they are not going to continue with the permit for temporary dining.

Sean Quinn, property owner, testified that the Planning Board mentioned barrier wall planters and valet parking; that they did jump ahead with the wall; because the cost of the concrete planters was \$1,000.00 each and they would have needed 10 of them which was cost prohibitive; that the wall is temporary and can be removed; that it is constructed of cinderblocks painted black, with the boxwood trees inserted.

Mr. Valentine, stated that it was a bold move to construct the wall without a permit or approval; and asked questions about the parking and if a parking variance would be required because of the additional seating being added.

Vittorio Lanni, owner of the restaurant, testified that he hired a professional valet company to address the parking, which was suggested by the Planning Board; that he has reached an agreement with the Florist up the street to use her parking area in the evenings when her business is closed; that he has 48 seats inside the restaurant and wanted to create a courtyard setting outside by adding the wall and he apologized for doing the work without the proper permit; that he could not imagine having tables outside adjacent to the driveway without a safety barrier; that he has a high end restaurant and customers are paying a substantial amount of money to eat in his establishment and he cannot imagine anyone wanting to eat outside next to a parking lot.

Kimberly Auth Lanni, restaurant owner, testified that the hours of operation at the restaurant are Monday through Saturday 5:00 pm to 9:30 pm and Sundays 2:00 pm to 8:00 pm; that in the future they offer lunches, but not yet; that the neighbors that are complaining about noise are not taking into consideration Roost, that has outdoor dining and garage doors that are open to the restaurant and to the entertainment that they offer; that they have hired local residents to work for them; that their hostess lives across the street and parallel to the Cantina and she says she has more noise from other tenants in her building than she gets from the Cantina; that all of the restaurants get deliveries by trucks and their business is the only business that has access for the trucks to park; and they have has a sound engineer to readings and more noise is coming from Roost than from their lot.

Donald Brenner, Attorney, responded to the public comments; testifying that Sparkill was a depressed area prior to the upgrade in zoning for the overlay zone in Sparkill; that the applicant is trying to be a good neighbor; that he listened to the Planning Board and hired a valet company; that for safety purposes he installed the wall without permission which he is sorry about; that he will wait for final Planning Board approval; that the Town should encourage these down town businesses to be successful and they would like to ask for a continuance to the September 6th hearing.

Ms. Castelli stated that she visited the site and questioned the parking requirements and the noise generated by the outdoor dining so close to the residential area; and asked about the hours of operation.

Mr. Quinn, owner of the building, testified that the entrance to the parking is double wide; that since the valet company was hired there has not been complaints from the residences regarding parking and getting blocked in; that the restaurant has two dinner **seatings**, the first at 5 pm and the second at 7:30 – 8:00; that this site on Main Street is zoned CS and the line cuts to residential on New Street and Union Street; that for two decades these lots were empty and the Town Board did the overlay zone and now the empty storefronts have turned around; that many residents have welcomed the change with open arms; that when a commercial zone meets a residential zone some noise should be expected; and that he would gladly add more trees if that would make the residents happy.

At the July 5, 2023 meeting:
Public Comment:

Paula Heitman, 7 Union Street, Sparkill, testified that she has three issues; that the first is that the wall was built without a permit; that she lives on the other side of the vinyl fence and that the applicant was given a stop work order and kept going; that the second issue is the parking; that the valet service is parking cars in front of each other; that the third problem is the noise from the garbage, recycling and it has a huge impact late at night on the residential neighbors and the impact is negative.

Jeff Goodman, 12 Edward Street, Sparkill, testified that he has lived in Sparkill for twenty-five years; that he enjoys downtown Sparkill and enjoys eating outside and would like to stand up in support of Lanni's; that it is a dignified and elegant restaurant and he was at the last meeting of the Planning Board when they recommended the planters.

Peter Perenyi, 131 River Road, Grandview, testified that he has dined at Lanni's and it is wonderful; that he is in support of the outdoor dining and added that the food is fantastic.

Alan Mehlberch, 10 Union Street, Sparkill, testified that this is the third time that he is speaking out against the courtyard dining facing residential buildings; that this negatively effects the neighborhood ; that it is like trying to put 50 pounds into a 5-pound bag.

James Cleary, 20 Van Terrace, Sparkill, testified that the original hearing planters were suggested; that there was no mention of a wall; that the applicant has shown blatant disregard for the stop work order and if this Board allows this to proceed it would be sending the wrong message to other businesses in the future.

Renee Bonsanti, 647 Main Street, Sparkill, testified that she loves these guys and wishes them the best but she has a couple of issues; the first is the parking and the double up of cars and tenants not being able to get out of their assigned parking spots; the second is that customers stand outside late at night talking and laughing and having fun but disturbing the residential neighbors whose bedroom windows look out over the outdoor area.

Gin Macallum, 10 Union Street, Sparkill, testified that she is across the street from the parking lot; that trucks are stopping in my driveway; that this is a proposal to double the capacity of the restaurant and it is adjacent to a residential neighborhood; that if it was next to your house, you would not support it; this is changing the quality of our lives; that it is having a huge impact on the residential neighbors that are not sleeping because of the additional noise; and one of the building inspector's told her that the ZBA will probably just say yes.

Marilyn Heitman, 7 Union Street, testified that she lives adjacent to the fence; and asked how many seats are being requested? The Chairman answered 35 seats. She continued that they have already done a lot of work without permits and they have a lined umbrella; and they are still doing things without permits after a stop work order; that this is doubling the restaurants capacity and the parking needs to be addressed.

Nolan Fryer, 3 Union Street testified that he has a parking spot and has not had a problem getting his car out of the lot; that one time he was blocked and he went to valet and it was fixed immediately; and that he has not had a problem with noise from the dumpster or recycling and he is in support of the restaurant.

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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At the April 16, 2025 meeting:

Members present: Michael Bosco, Chairman, Rob Bonomolo, Trish Castelli, Billy Valentine, Tom Quinn, Anthony DeRobertis was absent.

Also present: Denise Sullivan Esq., Deputy town attorney, Anne Marie Ambrose, Official stenographer, Katlyn Bettmann, Administrative Aide.

ZBA# 23-21: Application of LaFamiglia/Lanni Restaurant for a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown, CS District, Section 3.11, Column 7, No.1. "same as R-80"; R-80 Column 7, #6, "all restaurants ... shall be within completely enclosed buildings, unless by special permit of the ZBA: Special permit requested; and to renew the variances and Special Permit granted in ZBA#17-56: (Sparkill Temporary Play Area) for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Section 3.11, Group A, Column 4, #9 refers to CS District, Section 3.12, Group FF, Section 3.12, and Column 10 (Total Side Yard: 25' required, 0' proposed) and 11 (Rear Yard: 25' required, 0' proposed) for outdoor dining. The premises are located at 645 Main Street, Sparkill, New York and identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 48.1 & 48.2 in the CS zoning district.

At the April 16, 2025 meeting:

Donald Brenner, Attorney, Sean Quinn, property owner, Vittorio Lanni and Kimberly Auth Lanni, restaurant owners, appeared and testified.

The following documents were presented:

11. Architectural plans with the latest revision date of May 31, 2023, signed and sealed by Jonathan Hodash, Architect, 1 page (cover page)
12. Architectural plans with the latest revision date of April 26, 2023, signed and sealed by Jonathan Hodash, Architect, 1 page (A6a)
13. A letter dated April 2, 2025 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
14. A "No future correspondence for this site should be sent to this agency. Plans reviewed and this agency does not have any further comments." from Veolia Water New York, Inc., Frank McGlynn dated March 25, 2025.
15. A "comments attached" from Rockland Planning Department, Jake Palant dated March 17, 2025.
16. An email dated April 14, 2025 from Catherine Smith.
17. A letter received April 13, 2025, from Nolan Fryer, 3 Union Street, Apartment 2, Sparkill, New York.
18. An email dated April 15, 2025 from Andrea Schettino, 9 Union Street, Sparkill, New York.
19. Seven color pictures submitted by Marilyn Heitman, 7 Union Street, Sparkill, New York

At the April 16, 2025 hearing, Chairman Bosco, made a motion to open the Public Hearing which motion was seconded by **Ms. Castelli** and carried unanimously.

At the April 16, 2025 meeting:

Donald Brenner, Attorney, testified that giving some history on this project is that the Town Board many years ago passed a resolution for the Sparkill Overlay Zone trying to bring a renaissance to Sparkill, which this zoning has done; that Sparkill has become an area of renaissance development bringing people back into the village by means of walking; that the concept of the overlay zone was to bring business back to Sparkill; that there are stores on one level with residences on top level in this area; that then along came the Covid Pandemic which was a horrible disease; that this is still with us but has been controlled much better; that to keep these facilities alive, during Covid, the Town Board passed a Covid statute which permitted outdoor dining for restaurants; that restaurants were able to remain open and eat and work in open areas; that this is where the outdoor dining took place; that they were fortunate enough to be able to have Mr. Lanni open a beautiful restaurant in downtown Sparkill;

that this is a favorable restaurant, with great ratings; that this a small and concentrated restaurant that was very difficult to maintain; that the allowance of outdoor dining was permitted for two or three years under the Covid dining permission; that in this time frame the outdoor dining has been successful; that the Town Board has now stopped to the statute for outdoor dining; that now restaurant who are reliant on this are applying for the permit to have outdoor dining on a regular basis; that now the applicant is continuing with their application to grant outdoor dining on a regular basis and trying to meet the permits of the statute; that according to the zone they are in need of a special permit and required variances although they are following the same procedures which they have been following for the last two or three years, in terms of having the restaurant in downtown Sparkill; that all items pertaining to Orangetown Code Section 4.3 have been met; that they have been met with the public; that this fits in well with the community; that this is well accepted by the community; that the restaurant brings live action into the community; that the applicant needs the outdoor space because there are time when occupying a restaurant in a small area, he needs the additional space at times in order to keep the restaurant economically solvent; that people always complain about something when it's different but this is a great experience and improvement for Sparkill; that this is a good restaurant and they are good people; that Mr. Lanni's restaurant is a good place with good ratings, and Sparkill is a number one in terms of renaissance; that he can go through the elements needed for a special permit; that they have transportation; that the location has good water supply; that they have good waste disposal; that they have fire and police protection; that they have all of the public facilities that it needed; that this does not have undo traffic congestion, they have valet parking and is not impinging in any way on some of the commercial parking that is in that area; that they need this in order for them to stay prosperous; that to comply he needs this extra area during the summertime; that this is going to be used at time when the weather permits; that they do not have a drainage problem here; that this area is paved at all times; that all drainage requirements have been met with the town engineer; that in terms of drainage requirements and highway specifications it fits in very well under the special permit requirements and it fits in under the overlay zone requirements; that they are trying to do what other restaurants are not yet doing, and get a legalized outdoor dining permit, for the use of the restaurant; that some of the pictures supplied by the public misleading; that they are showing the garbage being picked up, the equipment needed for things to be built; that there will be cars back in the parking lot, but that the back dining area will be closed off at a specific time frame; that the outside will be closed to eating services by 10:00pm; that there are no restrictions on the inside of the restaurant which would prevent cars from being there; that having valet parking means that you may have a crowded parking area; that there is municipal parking in downtown Sparkill; that this is the only restaurant with its own parking lot; that he would like to get the Board the letter from the fire department and from the Rockland County Health Department; and that they would like a continuance.

Sean Quinn, property owner, testified that before this building was built they worked with town to establish the Sparkill Overlay Zone; that they were encouraged at that time to get some foot traffic into Sparkill because there were a lot of empty store fronts; that previous local businesses weren't able to remain open; that the ice cream shop was there for a year or two before Maureen's hair there was a pizza shop, they were there for two or three years that tried to drum up business but he closed as well; that these were Orangetown residents that were putting their lives into a business and there was no action, there was no foot traffic; that the Sparkill Overlay zone encouraged this type of zoning; that this succeeded with "Roost" and then "Joe's divine bar" and "Lanni's restaurant" which is a fine dining restaurant; that the overlay has been doing great; that the building is sprinklered; that when he spoke with the fire chief of Sparkill he was told that, if there was ever a need to respond to a fire call at this location, they would always enter from Union Street.

Vittorio Lanni, restaurant owner, testified that the outdoor seating is open so in the summer time it helps with overflow of twenty or so seats, if it is not raining, to help with the financial burden of the restaurant; that they are a thirty-eight seat restaurant; that any assistance with the outside is helpful; that it is beautiful out there and fits the theme of the restaurant; that it is al fresco dining; that the restaurant hosts high end clientele who are respectful and spending some decent dollars there; that this is not something that is used all of the time; that if they are busy they set it up and go outside; that this is not utilized seven days a week, but mostly on the weekends; that if it rains this space is not used; that they do a seating at five-thirty and seven-thirty therefore they would like to extend their outdoor dining hours of operation to ten pm.

Denise Sullivan, Deputy Town Attorney, asked if the amount of seating and bathrooms approved by the Rockland County Health Department?

Sean Quinn, responded that they were approved for the thirty-five seats based on their square footage.

Vittorio Lanni responded that they have two bathrooms and an employee bathroom.

Denise Sullivan, Deputy Town Attorney, asked how many seats they were allowed to have during the Covid rules? At six feet apart?

Vittorio Lanni responded that they were allowed to have up to thirty-five, but that they had twenty-eight seats.

Chairman Bosco asked based on square footage how many seats are you permitted to have, based on fire code, or bathrooms how many seats are you permitted to have?

Donald Brenner responded that they would not have been able to use this space if the Fire Code did not permit the use.

Vittorio Lanni responded that they received their outdoor dining sign off with Fire Prevention and the Building Inspector for twenty-eight seats; that the building inspector would not have been able to sign off unless the fire marshal came.

Sean Quinn responded that the 2023 from the Chief fire inspection bureau of fire prevention had no comments at this time for final outdoor dining plan; that it was always thirty-five seats; that one of the Planning Board members had suggested if there was any opposition than they would lower the number of outdoor seats.

Donald Brenner responded that they will get the requirement of seating that is permitted.

Chairman Bosco stated that the number of seats being applied for, being approved, and what they are saying was sign off on previously are contradicting.

Mr. Valentine asked the applicants that they had previously mentioned they had some economic issues related to Covid is this still the case? He also asked, in their opinion do they feel that without this outdoor seating their business would be in trouble?

Vittorio Lanni responded that having this is such a joy; that they have had repeat customers coming back that enjoy the outside seating; that they have customers that come specifically to sit outside; that it is quieter and peaceful in the outdoor seating area.

Kimberly Auth Lanni responded that she runs the front of the house at Lanni's restaurant; that she is the one who deals with the customers directly and answers the phone calls; that many of return customers who were able to experience the outdoor dining last year have come during the winter when it's not so busy and have asked or said that they can't wait for the outside to be open again; they have made their customers aware that they are seeking the approvals and will keep their customers updated on the status of the approvals; that the customers really enjoy the outdoor feature to have the option of sitting outside; The weather is nice and customers enjoy sitting outside; that the customers know they are busy on the weekends, and they like to come out on the weekends and they would rather sit outside.

Ms. Castelli stated that in the summer time it's always nice, and the weather is nice. She also asked on average, how many are sitting in the outdoor dining area?

Kimberly Auth Lanni responded that during the summer, during the week, it would be approximately ten people; that on the weekends it could get up to thirty people when it does get busy; that they were very popular when they first opened; that everyone wanted to try out their restaurant and they had that extra seating option; that now she does not think it will be that busy, although they may on certain nights be at that level; that she feels it will not be as crazy as it was; that she feels it will be more mellow on those certain nights; and that the whole summer was not that way at all; that it is always weather dependent.

Patricia Castelli asked if the customers are preferring to be seated outside rather than inside?

Vittorio Lanni responded that some people do prefer the outside.

Chairman Bosco asked what are the hours of operation on the weekends?

Vittorio Lanni responded that their weekend hours are 5-9; that Sparkill is an early town; that it is very rare in his time there that there is a reservation that comes in at nine o'clock at night; that it is over by nine-thirty; that most people are sat by eight o'clock.

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Mr. Valentine stated that the planning board approved nine thirty pm as their outdoor closing time, and that their plans state ten o'clock, and that looks to be a discrepancy. Kimberly Auth Lanni responded that nine-thirty would ok with them. Vittorio Lanni responded that no one would be coming in at nine or nine-thirty.

Patricia Castelli stated that the applicant says nine or nine-thirty as their last seating. Vittorio Lanni responded that yes, that would be the last seating. Patricia Castelli responded that this could mean that they could be there until eleven. Chairman Bosco clarified that if the hours of operation end at nine-thirty than this means that no one would be permitted to be outside after that time, and that this is what was approved in the preliminary approval at the planning board. Ms. Castelli stated that if a customer comes in at eight-thirty you would seat them inside; that you would not be moving them half way through their meal.

Mr. Valentine stated that as part of the planning board decision there is to be no bar and no music outside. Vittorio Lanni responded that they do not have a bar outside. Ms. Castelli asked if there is music outside? Vittorio Lanni responded that there is, but that it is a small "sono" speaker", and that they keep it very low.

Mr. Valentine stated that with the concrete planters, the line of sight at ground level is quite scarce. Vittorio Lanni responded that they are on two little wheels.

Mr. Valentine asked what makes their situation unique, such that it requires a special permit? Donald Brenner responded that each restaurant application stands on its own. Sean Quinn responded that Lanni's restaurant is the only restaurant in downtown Sparkill with its own parking lot; that the other restaurants don't have that; that he has control of the patrons that come; that the area next to 3 Union Street, behind 645 Main Street, its aesthetically in a location that is not being used, that is secluded; that has no residential to the left or to the right or across the street, it behind across the other side of the building.

Chairman Bosco, this was originally approved as a children's play area, this became an outdoor seating area during the Covid. If this was an outdoor seating area prior to Covid than it was illegal.

Sean Quin responded that this restaurant opened at that time, in the year 2022.

Vittorio Lanni responded that they opened in May of 2023 and the outdoor dining was in place in October of 2023.

Donald Brenner responded that the South Orangetown Central School District signed an agreement with a school, and that school moved to Palisades; that this was the school that was previously located in this facility.

Mr. Valentine asked if Roost has residences abutting their property? Or anywhere around it? Vittorio Lanni responded that there are two homes right next to them. Donald Brenner responded that there are homes across the street. Ms. Castelli stated that in the parking lot there are residences.

Mr. Valentine asked where they are going to be putting the garbage and is there going to be a container?

Vittorio Lanni stated that it has always been in the same location, enclosed; that it gets picked up four days a week.

Chairman Bosco stated that it is a concrete enclosed area, concrete on three walls with the gate in the front.

Sean Quinn stated that it is an enclosed dumpster.

Kimberly Auth Lanni stated that due to the winter months, they do keep some garbage cans at the back door, to put their recyclables in; that these get moved once winter is done.

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Ms. Castelli stated that the restaurant had outdoor dining in 2023; that she was there in the summer and they were already setup for the outdoor dining.

Vittorio Lanni responded that they did once they had the Covid; that they were unable to do the outdoor dining during the summer months; that it did not come in affect until late fall; that they never sat out there without the permit.

Mr. Valentine questioned note #3, as a condition of the outdoor dining approval proposed outdoor dining operation will cease if any future construction per the previous plan and commentary?

Sean Quinn stated that this is pertaining to a three-lot subdivision, when I built this building, and the O.B.Z.P.A.E. Director asked for this note to be put on the plan that if there is ever any future construction this would have to cease to exist.

Donald Brenner responded that if there were to be a third building this would have to cease to exist.

Vittorio Lanni responded that if Sean Quinn were to build there than we would have to shut down.

Chairman Bosco stated that the handicap parking spot is currently covered by green carpet; that there currently there is no handicap parking; that this is not designated and it is just a blue line on the drawing; that there also needs to be a sign clearly marking the handicap parking.

Vittorio Lanni responded that this will be moved out of there.

Denise Sullivan asked how many cars fit in the parking lot with the valet? And if they are only using the sixteen spots? Which spots are for the tenants, 11, 12, 13, and 14?

Vittorio Lanni responded that they offer the parking, and some people choose to walk.

Denise Sullivan clarified her question is that they are only using the number of parking spaces that exists, they are not squeezing an excessive number of cars into a lot where they do not fit? Or double park?

Ms. Castelli asked if they had valet parking in another lot?

Vittorio Lanni responded that they had discussed doing that but they never did it.

Donald Brenner responded that they had discussed doing the valet where the nursery is, but that it did not work out.

Sean Quinn responded that those are the tenant spots and that he has some tenants that don't drive, that they take commute to the City by bus.

Chairman Bosco stated that the intent of the parking lot vs. the current use differ, if there are four spots for people that live in the apartments, according to the pictures being shown; that they have the spot and they are part of their submittal. However, they cannot overcrowd the parking lot, the rest of the cars will have to park elsewhere; that cars cannot park there and create a hazard.

Kimberly Auth Lanni responded that this could simply be handled by the valet telling the additional cars that they cannot park there and that they will need to be moved.

Ms. Castelli asked, looking at the provided pictures, where are these cars located?

Sean Quinn responded that the picture was taken from looking towards the house, however there is someone in the car, so they may have been moving cars at the time; that any parking lot you are pulling in and out of you would be waiting for a moment;

Chairman Bosco stated that having the four spots designated for the parking for the tenants in important, and cannot be blocked; that means that you have twelve spots including one of them being a handicap; that that applicant will need to come up with these other parking spots; that they have thirty-eight seats inside and twenty-two to thirty seats outside, if half of them are driving you will not have a location for them to park;

Kimberly Auth Lanni responded that if a party of four comes in they may be in one car; that they are not who is responsible for causing congestion to the downtown parking lots;

Donald Brenner responded that there is down town parking; that we know this well from Pearl River where we always have this discussion; that they have spots that no one else has;

Ms. Castelli stated that this is not where they are parking though.

Sean Quinn responded that not everyone uses the valet.

Mr. Valentine stated that other restaurants in downtown Sparkill are providing zero parking spots.

Vittorio Lanni responded that they are lucky that they have the parking that they do.

Chairman Bosco stated that as part of the recommendation, the restaurant will need to be responsible when someone comes for what would be the fifteenth spot, that the do not have valet parking available to them.

Vittorio Lanni responded that this would be the valet's job; that this would not be an issue; that their valet attendee Ryan has been with them for two years.

Sean Quinn responded that they could accommodate that.

Chairman Bosco stated that there was mention of excessive garbage and rodents; that he would like to make sure that this is addressed; that its perception and or someone may have seen one.

Kimberly Auth Lanni responded that she has not seen any rodents, and that she leaves the restaurant through the back.

Vittorio Lanni responded that there are three wild cats that live in the back, and they are good for that.

Sean Quinn responded that the pictures that were submitted, he is unsure of when those were taken, maybe this was earlier on when they first opened, however the alley with the bins is no longer there, that was a temporary move; that the alley is clean and there is nothing in there now; that is now the entrance into 3 Union Street, and it is beautiful; that the dumpster is clean and picked up with no problem.

Chairman Bosco requested final clarification on the hours of operation; that they should not be cleaning up at 10:00pm; that there was a mention of a lunch service, is lunch being served because that is different than 5:30pm?

Donald Brenner responded that the outside would be limited to 10:00pm.

Ms. Castelli clarified that if someone comes in at 9:00pm they are not sitting outside.

Vittorio Lanni responded that if they are, they have to be out by 10:00pm; that they understand, loud and clear.

Kimberly Auth Lanni responded that they only serve lunch on Sundays; that they open at 2:00pm.

Vittorio Lanni stated that their hours on Sunday are 2;00pm to 8:00pm; that they close at 8:00pm for the inside and outside.

Chairman Bosco asked what the other hours of operation are, inside and out?

Vittorio Lanni responded that they are open 5:00pm – 10:00pm.

At the April 16, 2025 meeting:

Public Comment:

Marilyn Heitman, 7 Union Street, Sparkill, New York questioned if Zoning Board member Mr. Quinn and Applicant Mr. Quinn were related? She then testified that the parking lot is seventeen spaces; that they are double parking cars front bumper to back bumper; that no firetruck would ever be able to get through; that the applicants were talking about how they have operations from 5:00pm-9:30pm, however most cars are there until about 11:00pm or 11:30pm; that he has two seating that a dinner here for a couples costs about \$300, so they are making around \$7,000 - \$10, 000 a night or more; that she does not think we should have to worry about them having any issues financially; that the original approval for outdoor dining was for a playground in April of 2019 for 5 years so that is over with; that we don't have to worry about Covid anymore; that they were approved during Covid so no one complained because there was nothing we could do; that the garbage is unbelievable; that there are rodents running around and rats in her yard; that she had bones thrown over the fence; that she went over to the restaurant during off hours, to discuss the bones being thrown over the fence because her dog has one in his mouth, and he could die; that the fire exit out the front door into two way traffic and a fire exit out the back door; that if they get the outdoor dining they will run into their wall, the cooking utilities and table and won't be able to get out; that the valet young men are very nice, but they have no place to park the cars; that they are parking the cars on the street, down on New Street; that the lights are going on and off at peoples homes because of the lights; and the outdoor parking at depot square is completely full; that there are five or six businesses that use those lots; that if he is going to be bringing in that many more cars, that's like seventy; that my biggest complaint is outdoor dining and hours in first application he says 5:30pm-9:30pm; that she called the police its 12:00pm and I've had it.

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Geillaume Georgeias, 3 Union Street, Apartment #1, Sparkill, New York, testified that he lives in the apartment that is facing the restaurant; that he is a Frenchman and has been living here for the last year, last summer of 2024; that he is accustomed to the activity of the restaurant; that being a Frenchman he is used to living close to a restaurant, even those that are working up to 10pm; that he strongly supports the activity of the restaurant; that over the last year, since he has been there, the restaurant has been very respectful; that even with the windows open they can hear people enjoying a nice lunch and making memories in the center of Sparkill; that since he has been living in the center of Sparkill for this last year he has seen new businesses opening, and the town becoming more attractive; that he believes that a lot of the attractiveness comes from the restaurants; that it comes from a tourist oriented place; that there is a lot of potential to attract people across some of the local town like Sparkill, Nyack, Piermont, Tappan, Orangeburg because of the walking ways, cycling ways; that he feels that without these types of restaurants it would be a wasted potential; that regarding most of the claims of the parking, the parking is busy whether it is summer or winter, and with or without this open area; that they are thriving and doing their business; that not having this type of opportunity to work at night during the summer would also be a wasted potential; that he came to the U.S. a year and half ago to work in Lamont Doherty Observatory University as a researcher.

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 May 21, 2025 meeting:

Members present: Michael Bosco, Chairman, Rob Bonomolo, Trish Castelli, Billy Valentine, Anthony DeRobertis, Tom Quinn was absent.

Also present: Denise Sullivan Esq., Deputy town attorney, Anne Marie Ambrose, Official stenographer, Katlyn Bettmann, Administrative Aide.

ZBA# 23-21: Application of LaFamiglia/Lanni Restaurant for a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown, CS District, Section 3.11, Column 7, No.1. "same as R-80"; R-80 Column 7, #6, "all restaurants ...shall be within completely enclosed buildings, unless by special permit of the ZBA: Special permit requested; and to renew the variances and Special Permit granted in ZBA#17-56: (Sparkill Temporary Play Area) for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Section 3.11, Group A, Column 4, #9 refers to CS District, Section 3.12, Group FF, Section 3.12, and Column 10 (Total Side Yard: 25' required, 0' proposed) and 11 (Rear Yard:25' required, 0' proposed) for outdoor dining. The premises are located at 645 Main Street, Sparkill, New York and identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 48.1 & 48.2 in the CS zoning district.

Donald Brenner, Attorney, Sean Quinn, property owner, and Vittorio Lanni, restaurant owner, appeared and testified.

The following documents were presented:

20. A letter from the Sparkill-Palisades Fire District, received on May 5, 2025, Signed by Joshua B. Panter, Chief of Department.
21. An email from Sean Quinn, referencing an email from Rockland County Health Department with attachments, from Patrice Robertson, Senior Public Health Sanitarian (6 pages).
22. A copy of the Fire Prevention letter dated April 11, 2023, from Dave Majewski.
23. Five color computer-generated pictures submitted by applicant.
24. An email from Andrea Schettino, dated May 21, 2025 (4 pages).
25. An email from Marilyn Heitman, dated May 19, 2025.
26. An email from Marilyn Heitman, dated May 19, 2025 (2 pages).
27. An email from Marilyn Heitman, dated May 16, 2025 (2 pages).

At the May 21, 2025 hearing, Chairman Bosco, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

Donald Brenner, Attorney, testified that as the Board is aware they attended a prior ZBA meeting and went over the special permit elements; that these were all addressed and shown to be in good standings; that this outdoor dining has been in operation throughout the course of the permitted Covid outdoor dining period; that the client is now seeking to permit the use for the outdoor dining, as the Covid outdoor dining period has ended; that they has asked for a continuance to come back and gather some information; that specifically for operating times, no new customers will be taken, which the Board had given tentative instructions; that the Board requested specific items and the applicants feel that have supplied all of the requested items and additional; that they would like to move forward with the approval so that the applicant can move forward with getting their final approval; that the permit approvals are subject to which the town can enforce that the town can enforce and make sure that the location is cleaned up; that he is unsure if this permit approval will run with the land or the user; that there are other outdoor dining restaurants in the area without permits, closer to the neighbors that are complaining, right across the street even; that without a formal complaint filed he feels that a short time frame approval for his clients is unfair.

Sean Quinn, property owner, testified that they have supplied the Board with a letter from the Sparkill Fire Department, stating that they have no concerns with the outdoor dining; that they have also supplied the Board with a letter from the Rockland County Healthy Department; that they have also brought with them photographs depicting tenants parking spots for spots ten thru eleven; that they also installed a handicap sign and restriped the parking space; that at the previous meeting there were some concerns about the dumpster and the garbage; that they have provided pictures of what the dumpster area looks like at the present time; that Vittorio has a hired company that does the power washing for him and this area is very well maintained; that he has always tried to be a good neighbor; that he has spoken with regards to neighbor complaints and worked to address them; that the parking spots that they were asked to mark for the tenants were marked between spots eleven and fourteen; that his tenants have never had an issue finding a spot to park in.

Vittorio Lanni, restaurant owner, testified that on Sundays they open and closer earlier; that they would like to have the ability to open for lunch on Saturday and Sundays and possibly host a champagne brunch; that he would like to have the option to open on a Monday from noon to eight or to be open from 12:00pm to 10:00pm six days a week; that they would like their hours to be: Sunday to open at 2:00pm and close at 8:00pm, Mondays they are closed, Saturday and Tuesday thru Friday to be open at 12:00pm and close at 10:00pm; that it's hard to be out of the area by 9:30pm if we still need to clean up; that he has high end clientele, not a bar.

Mr. Valentine asked if there are any rodent issues? He also stated that he looked up the reviews of the restaurant and was not able to find anything negative.

Ms. Castelli asked how many seats there are inside the restaurant?

Vittorio Lanni responded that there are thirty-eight seats inside the restaurant.

Public Comment

William Cornejo-Cruz, 649 Main Street, Sparkill, New York testified that he resides two doors down from the restaurant; that he is asking respectfully for this application to be denied; that in a broad and philosophical context, the term neighbor can be referred to as any fellow human being, regardless of physical proximity; that this interpretation emphasized the interconnectedness of humanity and the moral imperative to treat other with kindness, respect, and empathy, hence strengthening the community; that Lanni's restaurant falls short in each of these mentioned values; Lanni's has repeatedly violated noise ordinances, loud disturbances from outdoor dining patrons at times of continuing until 1:00am; that the restaurant closing hours of 8:00pm on Sundays and 10:00pm for the remainder of the week are not enforced in the outdoor dining space; that last summer when his son was ten months old there were several Friday and Saturday nights when they were woken up by intoxicated patrons shouting and socializing after midnight; that these incident have become a regular source of stress and sleep disruption for him, his family, and his neighbors; that they have also observed recurring issues with publicly intoxicated patrons loitering and creating a disruptive and, at times, an unsafe atmosphere in our residential area. Granting an outdoor seating license would only worsen these problems;

that they value their neighborhood and support local businesses, but not at the expense of their peace, safety, and quality of life; that he is asking the Board to please consider the ongoing negative impact that the outdoor space of this restaurant has had on their community and to deny this request, and thanked the Board for their time and consideration.

The members present asked for legal advice from the attorney and left the room for an executive session.

Marilyn Heitman, 7 Union Street, Sparkill, New York, testified that at the last meeting, after the meeting, the applicants approached her in the hallway and she was verbally attacked by Mr. Quinn and Mr. Lanni that she was a terrible; that they have never been out of the parking lot 11:30 or 12:00pm; that their hours of operation have gone on forever; that the two letters that the Board has received are from neighbors and tenants of Mr. Quinn's, who approves of the outdoor dining; that the cleanup of the garbage that was done was yesterday, and it was the first cleanup in two years; that it reminds her of a teenager asking their family for the car keys and saying I'll clean up my room, I'll do the trash, I'll do anything to have the car; that that is what they are doing to the Board; that they are saying they have cleaned up and made everything nice and now they should be approved; that she disagrees; that she does not think that they should be approved for outdoor dining at all.

Alan Mehlbrech, 10 union Street, Sparkill, New York, testified that this is his fourth time at the Board; that each time he is saying the same thing over and over; that he is not in favor of the outdoor dining; that this is all on the record; that if this goes forward and does get approved can we stamp it to this owner for this restaurant; that if this restaurant vacates or goes to the next of kin it would have to go through the whole process again; that it hasn't gone very smoothly; that he's wondering if this will attach to the owner; that he has walked through, as he lives around the corner, the parking and clean up are a problem the loud noises are a problem, the trucks are a problem.

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.

Chairman Bosco 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 Special Permit that for the use of Outdoor Dining has existed throughout the Covid permitted period without documented incidents, 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 **ONE YEAR** from the date of issuance of the certificate of occupancy with hours of operation limited to the following specifics: Tuesday thru Saturday 12:00pm – 10:00pm, Sunday 12:00pm – 8:00pm, and Monday closed.
2. The applicant provided photographs depicting tenants parking spots for spots ten thru eleven fourteen. They have also a handicap sign and restriped the parking space where requested. The restaurant also provides valet parking.

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3. The requested 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 **ONE YEAR** from the date of issuance of the certificate of occupancy with hours of operation limited to the following specifics: Tuesday thru Saturday 12:00pm – 10:00pm, Sunday 12:00pm – 8:00pm, and Monday closed.
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 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 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.
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 is GRANTED FOR **ONE YEAR from the date of issuance of the certificate of occupancy**; 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 Special Permit is **GRANTED FOR ONE YEAR** from the date of issuance of the certificate of occupancy; was presented and moved by Chairman Bosco, seconded by Ms. Castelli and carried as follows: Chairman Bosco, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Ms. Castelli, aye; Mr. DeRobertis, aye. Mr. Quinn was absent.

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign this decision and file a certified copy thereof in the office of the Town Clerk.

DATED: May 21, 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- Dom M.

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

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TOWN CLERK'S OFFICE