

MINUTES
ZONING BOARD OF APPEALS
September 21, 2016

MEMBERS PRESENT: DAN SULLIVAN
 PATRICIA CASTELLI
 THOMAS QUINN
 JOAN SALOMON
 MICHAEL BOSCO
 LEONARD FEROLDI, ALTERNATE

ABSENT: NONE

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney
 Ann Marie Ambrose, Official Stenographer
 Deborah Arbolino, Administrative Aide

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

PUBLISHED ITEMS

<u>APPLICANTS</u>	<u>DECISIONS</u>	
CASSE 69.18/ 4 / 31; R-15 zone	FLOOR AREA RATIO, LOT AREA, FRONT YARD, SIDE YARD, AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#16-78
ORANGETOWN SHOPPING CENTER AMENDMENT 74.10 / 1 / 67; CS zone	OFF-STREET PARKING AMENDMENT APPROVED	ZBA#16-79
EDGAR 64.17 / 3 / 18; R-15 zone	FRONT YARD VARIANCE APPROVED	ZBA#16-80
ROSS 68.15 / 1 / 12; R-15 zone	FRONT YARD, SIDE YARD, AND REAR YARD VARIANCES APPROVED	ZBA#16-81
COFFEY GARAGE 63.20 / 1 / 1; LO zone	LOT AREA, LOT WIDTH, STREET FRONTAGE, FRONT YARD SIDE YARD, TOTAL SIDE YARD, REAR YARD, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#16-82
BAILEYS GRAVEL PARKING AREA 70.14 / 4 / 5,6,& 7; CS zone	REAR YARD AND SECTION 6.36 GRAVEL PARKING AREA APPROVED APPLICANT WITHDREW REQUEST FOR OUTDOOR DINING	ZBA#16-83
ESPLANADE EXTENSION OF TIME TO IMPLEMENT VARIANCES GRANTED IN ZBA#12-33 78.17 / 2 / 1; R-40 zone	SIX MONTH EXTENSION GRANTED	ZBA#16-84

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 24
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ALUF PLASTICS
PERFORMANCE STANDARDS
70.18 / 2 / 15; LI zone

CONTINUED

ZBA#16-85

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: BLESS Enterprises Auto Shop Site Plan- Addition, 187 Route 303, Orangeburg, NY; 74.15 / 1 / 8; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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 11:45 P.M.

Dated: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 24
TOWN CLERKS OFFICE

DECISION

FLOOR AREA RATIO, LOT AREA, FRONT YARD, SIDE YARD, AND TOTAL SIDE YARD VARIANCES APPROVED

To: Brian and Susan Casse
123 Nauraushaun Road
Pearl River, New York 10913

ZBA #16-78
Date: September 21, 2016
Permit # 45337

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 16-78: Application of Brian and Susan Casse for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .271 proposed), 5 (Lot Area: 15,000 sq. ft. required, 11,293 sq. ft. existing), 8 (Front Yard: 30' required, 21.55' proposed) 9 (Side Yard: 20' required, 15.2' proposed), and 10 (Total Side Yard: 50' required, 22.8' proposed) for an addition to an existing single-family residence. The premises are located at 123 South Nauraushaun Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 4, Lot 31; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Brian and Susan Casse appeared and testified.

The following documents were presented:

1. Architectural plans dated April 21, 2016 with the latest revision date of June 6, 2016 by Greig Andersen, Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Brian Casse testified that they would like to add on to their existing house; that none of the small additions would block any views or interfere with their neighbors privacy; and that the side yard and total side yard are existing non-conforming conditions.

Susan Casse testified that they are proposing to widen the existing dining room because presently it is so small that it is hard to walk around the table when people are seated around it; that they are proposing a great room with a fireplace in the rear of the house and a small front porch.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 24
TOWN CLERKS OFFICE

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 floor area ratio, lot area, front yard, side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, lot area, front yard, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, lot area, front yard, side yard and total side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11:24
TOWN CLERKS OFFICE

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


TOWN CLERKS OFFICE
2016 OCT 18 PM 11 24
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, lot area, front yard, side yard and total side yard variances was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-R.A.O.

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 24
TOWN CLERKS OFFICE

DECISION

OFF-STREET PARKING VARIANCES APPROVED AS AMENDED

To: Stephen Honan (Orangetown Shopping Center)
96 South Broadway
South Nyack, New York 10960

ZBA #16-79
Date: September 21, 2016
Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-79: Application of Orangetown Shopping Center for an amendment to ZBA# 14-64 for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Group FF, Section 3.11, Columns 6 #4, #5, & #8 (Off-Street Parking: 500 spaces required, 347 spaces approved in ZBA#14-64) amended as (Off-Street Parking: 488 required, 378 parking spaces proposed) for an amendment to a previously approved site plan. The site is located at 1-45 Orangetown Shopping Center, Orangeburg, New York and are identified on the Orangetown Tax Map as 74.10/ 1 / 67; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Stephen Honan, Attorney, Rob Aiello, P.E., and Juan Yeppes, P.E. appeared and testified.

The following documents were presented:

1. Site Overall Master Layout Plan dated 06/08/2016 signed and sealed by Robert Aiello, P.E.SP-1 through SP-13.
2. Narrative Summary dated July 25, 2016 submitted by Stephen M. Honan, Attorney.
3. Planning board Decision #16-39 dated July 13, 2016.
4. Zoning Board of Appeals Decision # 14-64, dated October 15, 2014.
5. A parking analyses dated July 23, 2014 by Bernard Adler, P.E., Adler Consulting, Transportation Planning & Traffic Engineering, PLLC.
6. A letter dated August 16, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A letter dated September 1, 2016 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.

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

On advice of Dennis Michaels, 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 this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted a SEQRA review and, on July 13, 2016 rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declaration" or "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: Mr. Quinn, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Bosc, aye; and Ms. Salomon, aye.

2016 OCT 18 PM 11:30
TOWN OF ORANGETOWN

Stephen Honan, Attorney, testified that he is representing the applicant UB Orangeburg, LLC, seeking an amendment to the prior ZBA Decision dated October 15, 2014 for an adjustment of the number of off-street parking spaces; that there was a typo in the original decision; that they have changed the original site plan and are not going to have an entrance from Orangeburg Road directly into the parking lot; that the pad site for the proposed restaurant has been reduced in size to 2300 sq. ft..

Rob Aiello, Engineer, testified that they are proposing 378 off-street parking spaces and 489 are required; that they will have two full bays closest to the building and the plan will be implemented in phase I and II; that the color modified plan shows phase I and the modification to the pad site at 2,300 sq. ft.; that phase II will be completed when they know what tenant will occupy the pad site; and there will be 3,000 sq. ft. of landscape islands and water quality structures added.

Public Comment:

Alex Glasser, 220 S. Greenbush Road, questioned if the entrance from Oak Street up the hill will be improved and if parking would remain on the back side of the Post Office.

Jackie Grechsler, 116 Sierra Vista Lane, Valley Cottage, testified that she would like to know if the developer considered permeable areas to be included in the plan; that everyone should be thinking about adding green space.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested off-street parking variance amendment to 378 parking spaces will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The traffic study that was conducted for the previous Zoning Board meeting in October 2014, clearly supports the approval of the amendment for 378 parking spaces to be sufficient to accommodate the overall layout plan for the shopping center.
2. The requested off-street parking variance amendment to 378 parking spaces will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The traffic study that was conducted for the previous Zoning Board meeting in October 2014, clearly supports the approval of the amendment for 378 parking spaces to be sufficient to accommodate the overall layout plan for the shopping center.
3. The benefits sought by the applicant can be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

4. The requested off-street parking variance amendment to 378 parking spaces, although somewhat substantial, 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 traffic study that was conducted for the previous Zoning Board meeting in October 2014, clearly supports the approval of the amendment for 378 parking spaces to be sufficient to accommodate the overall layout plan for the shopping center.
5. The applicant purchased the property subject to Orangetown’s Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested off-street parking variance amendment to 378 parking spaces is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

2016 OCT 18 PM 11 24
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested off-street parking variance amendment to 378 parking spaces was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-R.A.O.

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 24
TOWN CLERKS OFFICE

DECISION

FRONT YARD VARIANCE APPROVED

To: Greg and Marie Edgar
25 Amory Avenue
Pearl River, New York 10965

ZBA #16-81
Date: September 21, 2016
Permit # 45283

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-81: Application of Greg and Marie Edgar for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 8 (Front Yard: 30' required, 17.3' proposed) for a new covered porch at an existing single-family residence. The premises are located at 25 Amory Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 64.17, Block 3, Lot 18; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Greg Edgar appeared and testified.

The following documents were presented:

1. Plot plan based on survey prepared by Robert Sorace, PLS and labeled "New Covered Front Stoop" dated 06/19/2016 signed and sealed by Jane Slavin, Architect.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Greg Edgar testified that he purchased the house 2 ½ years ago; that the front steps are very worn and he would like to replace them and the decking at the landing and to add two columns and a roof over them for weather coverage; and that the house two houses away to the east has done the same thing.

TOWN CLERKS OFFICE

2016 OCT 18 PM 11 24

TOWN OF ORANGETOWN

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 24
TOWN CLERKS OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE

2016 OCT 18 PM 11 24


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

DECISION

FRONT YARD, SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Charles and Leigh Ross
214 West Washington Avenue
Pearl River, New York 10965

ZBA #16-81
Date: September 21, 2016
Permit #45344

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-81: Application of Charles Ross for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 8 (Front Yard: 30' required, 25'5" proposed), 9 (Side Yard: 20' required, 15' proposed) and 11 (Rear Yard: 35' required, 20' proposed) for decks at an existing single-family residence. The premises are located at 214 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 1, Lot 12; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Jennifer Ross appeared and testified.

The following documents were presented:

1. Site plan with proposed decks drawn on it.
2. Four pages of deck plans.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Jennifer Ross testified that they would like to extend the existing decks in the back yard; that there is presently a small landing at one location and they would like to have more space to entertain; and that she did not know that she had two front yards according to the zoning code.

TOWN CLERKS OFFICE

2016 OCT 18 PM 11 23

TOWN OF ORANGETOWN

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard, side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is a corner lot with two front yards.
2. The requested front yard, side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is a corner lot with two front yards.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The lot is a corner lot with two front yards.
4. The requested front yard, side yard and rear yard variances, although somewhat substantial, afford 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 lot is a corner lot with two front yards.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

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 and rear yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

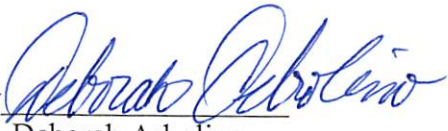
TOWN OF ORANGETOWN
2016 OCT 18 PM 11 28
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested front yard, side yard and rear yard variances was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

DECISION

**LOT AREA, LOT WIDTH, STREET FRONTAGE, FRONT YARD, SIDE YARD,
TOTAL SIDE YARD, REAR YARD AND BUILDING HEIGHT VARIANCES
APPROVED**

To: Bart Rodi (Coffey)
234 South Grant Avenue
Congers, New York 10920

ZBA #16-82
Date: September 21, 2016
Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-82: Application of Gerard Coffey for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LO District, Group X, Section 3.12, Columns 5 (Lot Area: 2 acres required, 15,499 sq. ft. existing), 6 (Lot Width: 300' required, 100' existing), 7 (Street Frontage: 150' required, 100' existing), 8 (Front Yard: 100' required, 44.3' existing), 9 (Side Yard: 100' required, 20' proposed), 10 (Total Side Yard: 200' required, 60' proposed), 11 (Rear Yard: 100' required, 13.42' proposed) and 12 (Building Height: 3.36' permitted, 13' existing, 19.25' proposed) for an amendment to a previously approved site plan. The site is located at 363 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 63.20. Block 1, Lot 1; LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Gerard Coffey and Bart Rodi, Engineer, appeared and testified.

The following documents were presented:

1. Site plan dated June 8, 2016 with the latest revision date of August 4, 2016 signed and sealed by Bart M. Rodi, P.E..
2. Architectural plans labeled "Proposed Garage" dated May 11, 2016 with the latest revision date of June 13, 2016 signed and sealed by Bart Rodi, P.E..
3. Planning board decision #16-50 dated July 27, 2016.
4. A memorandum dated July 27, 2016 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
5. A letter dated August 30, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, acting Commissioner of Planning.
6. A letter dated September 1, 2016 from the Rockland County Sewer District #1 signed by Joseph La Fiandra, Engineer II.
7. A letter dated August 15, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E..
8. A letter dated September 9, 2016 from the Town of Clarkstown signed by Shirley J. Thormann, Chairwoman, Clarkstown Planning Board.

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

Since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented and did not object to the Planning Board acting as Lead Agency on July 27, 2016, pursuant to coordinated review under the State Environmental Quality Review Act Regulation 8 617 614 (3); and since the Planning board conducted a SEQRA review and

2016 OCT 18
TOWN OF ORANGETOWN

rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" or "Neg Dec") on 07/27/2016, the Zoning Board of Appeals is bound by the Planning Board's Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.5 (b) (3).

Bart Rodi, Engineer, testified that the application is asking for a lot of variances but many of them are for pre-existing non-conforming conditions; that the side yard setback is actually being improved; that the new proposed garage is taller; that Mr. Coffey is an electrical contractor in NYC and Pearl River and he is consolidating to this location; that he would like to park his large truck in the garage and store supplies in the building also; that the lot is only 1/3 of an acre and the zoning requirements are for 2 acres, so the lot is very undersized; and that the garage has been located further away from the property line and they have no problem adding landscape along the Clarkstown border.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 lot area, lot width, street frontage, front yard, side yard, total side yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Many of the requested variances are for pre-existing non-conforming conditions and the lot is severely undersized for the zone.
2. The requested lot area, lot width, street frontage, front yard, side yard, total side yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Many of the requested variances are for pre-existing non-conforming conditions and the lot is severely undersized for the zone.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Many of the requested variances are for pre-existing non-conforming conditions and the lot is severely undersized for the zone.

2016 OCT 18 PM 11 28
TOWN OF ORANGETOWN

4. The requested lot area, lot width, street frontage, front yard, side yard, total side yard, rear yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant has agreed to add landscaping along the property that borders Clarkstown.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested lot area, lot width, street frontage, front yard, side yard, total side yard, rear yard and building height variances are APPROVED with the Specific Condition that the applicant shall add landscape screening near the property line along the Clarkstown border; ; 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.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

(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 lot area, lot width, street frontage, front yard, side yard, total side yard, rear yard and building height variances with the Specific Condition that the applicant shall add landscape screening near the property line along the Clarkstown border; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-N.A.

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

TOWN CLERKS OFFICE
2016 OCT 18 PM 11 23
TOWN OF ORANGETOWN

DECISION

**REAR YARD & § 6.36 GRAVEL PARKING AREA VARIANCES APPROVED;
AND § 3.11, COLUMN 7 #3 OUTDOOR DINING REQUEST WITHDRAWN**

To: Bailey's Smoke House
132, 136 & 140 Erie Street
Blauvelt, New York 10913

ZBA #16-83
Date: September 21, 2016
Permit #40636

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-83: Application of Bailey's Smoke House for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, LO District, Group FF, Section 3.12, Column 11 (Rear Yard: 25' required, 5.4' proposed for an existing walk in box); from Section 6.36 (All open parking areas shall be paved: gravel parking existing and proposed) and from Section 3.11, Column 7 #3 (All retail sales and service shall be within completely enclosed buildings: outdoor dining is proposed) for a site plan at an existing restaurant. The premises are located at 132, 136 & 140 Erie Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.14, Block 4, Lots 5, 6, & 7; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Harry Goldstein, Architect, and Dava Bailey appeared and testified.

The following documents were presented:

1. Site plan labeled " D.P. Bailey, LLC dated July 28, 2015 with the latest revision date of 04/27/2016 signed and sealed by Anthony R. Celentano, L.S..
2. Architectural plan dated June 5, 2015 by Harry J. Goldstein, not signed or sealed. (one page)
3. Planning Board Decision # 11-50 dated July 27, 2016.
4. Memorandum dated June 22, 2016 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
5. A letter dated August 30, 2016 from the Rockland County Department of Planning signed by Douglas j. Schuetz, Acting Commissioner of Planning.
6. A letter dated September 1, 2016 from the Rockland County sewer District #1 signed by Joseph LaFiandra, Engineer II.
7. A letter dated August 15, 2016 from the Rockland County Division of Environmental health signed by Scott McKane, P.E., Senior Public Health Engineer.
8. A letter dated September 20, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..
9. A letter objecting to the outdoor dining and the gravel parking area from residents of 3 N. Moison Road, Blauvelt.
10. A petition dated 7-16 opposing the outdoor dining and the Moison Road entrance signed by 32 residents.

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 28
TOWN CLERKS OFFICE

Since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency on July 27, 2016, pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning board conducted SEQRA review and rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" or "Neg Dec") on 07/27/2016, the Zoning Board of Appeals is bound by the Planning Board's Neg Dec and the Zoning Board of Appeals cannot require further SEQRA review pursuant to SEQRA Regulations § 617.5 (b) (3).

Donald Brenner, Attorney, testified that this application has received preliminary approval and a neg dec from the Planning board; that they are showing two handicap parking spaces on Moison and one on Erie; that the Planning Board recommended keeping the gravel parking lot because it is better for the environment; that the outdoor dining area would have 64 seats and is uncovered so it does not change the parking requirements; that the outdoor dining area would be 100'x 100'; that they would probably be finished outside be 10 p.m. weekdays and 11:00 p.m. week-ends; that the property is zoned CS; that arguments were presented at the Planning Board for buffers and landscaping; that they have the right to the handicap parking spaces and are not looking for variances for them; and that they will remove the request for the out-door dining on this application

Public Comment:

Heather Hurley, 202 Hobart Street, Pearl River, NY testified that she support the restaurant and what they are trying to do but they should into the odors coming from Aluf before they invest in out-door dining.

Michael Marucci, 20 N. Moison Road, testified that he is submitting a petition signed by many people living in the area that are strongly opposed to outdoor dining and to the Moison Street entrance; that four years ago in August he went on a family vacation and returned to find that the 50-75 foot buffer that had existed between the residential properties and bailey's had been clear cut without a permit; that there is constant garbage and noise; that there was a film crew there and the lights were bright; that he would ask that the buffer be replaced before any building permit is issued; that outdoor dining will be loud, that they hope for no music or bands; that other restaurants in Orangetown that abut residential neighborhoods were denied out door dining.

Lisa Marucci, 20 N. Moison Road, testified that she supports everything that her husband said; that there is noise at all hours; that there are dishes clanging; that the buffer should be replaced before any permit is issued.

Nicky Mulholland, 25 N. Moison Road, testified that she is the neighbor east on Erie; that the two handicap spots on N. Moison will block the view for cars entering and exiting; that it will be hazardous; that all the parking spots should be in the lot and asked what protects the residences from the business?

Ed Olson, 12 N. Moison Road, testified that he is against the outdoor dining; that when Bailey's host a band his house shakes' that all of the smokers from the restaurant are noisy; that the handicap parking on N. Moison will be hazardous; that there is a school bus stop there; that when there is a train all of the local traffic diverts itself through N. Moison; that the building has several levels and he doesn't understand how a handicapped person would get around in the building; and that they are always changing plans.

2016 OCT 18 PM 11:28
TOWN OF ORANGETOWN

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard and §6.36 gravel parking area variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The parking lot has been gravel for many years and the walk-in box in the rear yard has not been objected to by the public.
2. The §3.11, Column 7 #3 outdoor dining variance request was withdrawn by the applicant, and , since the outdoor dining aspect of the application was withdrawn, the Board did not review same and was not decided upon by the Board.
3. The requested rear yard and §6.36 gravel parking area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The parking lot has been gravel for many years and the walk-in box in the rear yard has not been objected to by the public.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested rear yard and §6.36 gravel parking area and §3.11 variances, although somewhat substantial, afford 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 parking lot has been gravel for many years and the walk-in box in the rear yard has not been objected to by the public.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested rear yard and §6.36 gravel parking area variances are APPROVED with the SPECIFIC CONDITION that the vegetative buffer be replaced between the commercial and residential properties to the satisfaction of ACABOR; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE
2016 OCT 18 PM 11 23
TOWN OF ORANGETOWN

Bailey's Smoke House
ZBA#16-83
Page 5 of 5

Permit #40636

The foregoing resolution to approve the application for the requested rear yard and §6.36 gravel parking area variances with the SPECIFIC CONDITION that the vegetative buffer be replaced between the commercial and residential properties to the satisfaction of ACABOR; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-B.v.W. to R.A.O.

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

TOWN CLERKS OFFICE
2016 OCT 18 PM 11 23
TOWN OF ORANGETOWN

DECISION

**EXTENSION OF TIME TO IMPLEMENT VARIANCES GRANTED IN
ZBA#12-33 APPROVED FOR SIX MONTHS**

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

ZBA #16-84
Date: September 21, 2016
Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-84: Application of Palisades Garden Group LLC (Esplanade) for an extension of time to implement the variances that were granted in ZBA#12-33 on November 7, 2012: ZBA#12-33: Application of Palisades Garden Group LLC (Esplanade) for a Special Permit Section 7.34 (of Chapter 43 Zoning of the Orangetown Code) to allow 205 rooms granted in ZBA#74-6: amendment to decision #74-6 is needed for the minimum yard set backs of 100 feet as filed in the restrictive covenant (number 9) and variances from Chapter 43 (Zoning), Section 3.12, R-40 District, Group H, Columns 4 (Floor Area Ratio: .15 permitted, .24 proposed), 9 (Side Yard: 100' required, 47.5' existing to existing garage; 67.3' proposed to Unit F; 81.3' proposed to Unit G), 10 (Total Side Yard: 200' required, 176.8' proposed to unit F; and 11 (Building Height: 16.83' permitted for unit F, 35' proposed to unit F) for an addition of a second floor on a portion of existing buildings and construction of a new wing at an existing independent living facility. The site is located at 640 Oak Tree Road, Palisades New York and is identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 1 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 21, 2016 at which time the Board made the determination hereinafter set forth.

Donald Brenner appeared and testified.

The following documents were presented:

1. ZBA file #12-33.
2. Planning Board decision #14-14 dated February 26, 2014.

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

On advice of Dennis Michaels, 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 this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted a SEQRA review and, on July 27, 2016 rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declaration" or "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); and/or Alternatively: seeks a renewal of a permit or license, where there will be no material change in permit conditions or the scope of permitted activities, this application is exempt from environmental review under the State Environmental Quality Review Act pursuant to SEQRA Regulation 617.5 (c) (26); The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Bosco, aye; and Ms. Salomon, aye.

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

Donald Brenner, Attorney, testified that they had trouble getting all of the engineering done for this job in a timely manner; and by the time the drawings were complete the time to implement the variances had expired; that they are not changing anything from the original approval but need the extension of time in order to get the plans signed off and filed; that they are ready to start the work immediately and a six month extension of time would be sufficient.

Public Comment:

No public comment.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 extension of time to implement the variances granted in ZBA #12-22 of 11/07/2012 is approved, outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. No significant change in circumstances has occurred since the prior approved variance were granted that would warrant Board reconsideration of its approval.
2. Applicant stated that it expects construction to begin in the near future.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested 6-month extension of time to implement the variances granted in ZBA#12-33 dated November 7, 2012, is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

TOWN OF ORANGE TOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
2016 OCT 18 PM 11 23
TOWN CLERKS OFFICE

Esplanade extension of time
ZBA#16-84
Page 4 of 4

no permit #

The foregoing resolution to approve the application for the requested six-month extension of time to implement the variances granted in ZBA#12-33 dated November 7, 2012, was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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: September 21, 2016

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-N.A.

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

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