

MINUTES
ZONING BOARD OF APPEALS
January 17, 2018

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

ABSENT: MICHAEL BOSCO

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

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>	
<u>NEW ITEMS:</u>		
ADVANCED MANOLTA 615 Route 303 Blauvelt, NY 65.18 / 1 / 9; LO zone	CONTINUED	ZBA#18-04
UOVO SIGN 100 Bradley Parkway Blauvelt, NY 65.18 / 1 / 17; LIO zone	SIGN VARIANCE APPROVED	ZBA#18-05
ORANGETOWN COMMERCE CENTER SIGN EXTENSION OF TIME VARIANCE 5 Greenbush Road Orangeburg, NY 74.15 / 1 / 2; LI zone	18 MONTH EXTENSION OF TIME TO IMPLEMENT VARIANCES GRANTED	ZBA#18-06
ORANGETOWN COMMERCE EXTENSION OF TIME HEIGHT VARIANCE 5 Greenbush Road Orangeburg, NY 74.15-1-2-LI zone	18 MONTH EXTENSION OF TIME TO IMPELEMENT VARIANCES GRANTED	ZBA#18-07

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2018 FEB 12 P 12: 57
TOWN CLERK'S OFFICE

MARGIOTTA
423 White Oak Road
Palisades, NY
77.20 / 1 / 24; R-22 zone

REAR YARD VARIANCE
APPROVED

ZBA#18-08

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 10:00 P.M.

Dated: January 17, 2018

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
2018 FEB 12 P 12:58
TOWN CLERK'S OFFICE

DECISION

SIGN VARIANCE APPROVED

To: Bobby Simotas (UOVO)
26 West 17th Street #801
New York, New York 10011

ZBA #18-05
Date: January 17, 2018
Permit #46277

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-05: Application of 100 Bradley Parkway LLC for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, LI District, Column 5 Item # 6 refers to LIO District, Column 5 Item # 11 (Signage: 60 sq. ft. permitted, 77.85 sq. ft. proposed) for signs at Uovo. The premises are located at 100 Bradley Parkway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.18, Block 1, Lot 17; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 17, 2018 at which time the Board made the determination hereinafter set forth.

Jairo Vella, Studio Director, appeared and testified.

The following documents were presented:

1. Site Plan UOVO dated 11/16/16 signed and sealed by Arthur Chabon, Architect.
2. Exterior Signage Key Plan dated 03/13/17 signed and sealed by Arthur Chabon, Architect.
3. A letter dated January 10, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated January 16, 2018 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated December 12, 2017 from the Rockland County Highway Department signed by Joseph Arena, Senior Engineering Technician.

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

Jairo Vella testified that the proposed building is 120 feet from Route 303; that the building is a 150,000 sq. ft. warehouse that shall be storing fine art; that the west side of the building faces the woods and the signs on this portion of the building are numbers for each lading area and a sign by the door that says "ring bell for assistance"; that the security for the building is tight because they are storing valuable art within; that the name of the facility and its address will be on the front of the building; and there will be a spotlight on the name at night; that the area is heavily wooded and the building needs to be identified.

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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 seeks area or bulk variances for construction or expansion of a primary, or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Mr. Bosco was absent.

Public Comment:

No public comment.

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

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 signage variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The building is set back approximately 120 feet from Route 303, and the signs on the rear of the building are directional signs for each bay and informational by the entrance door to "Ring bell for assistance".
2. The requested signage variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The building is set back approximately 120 feet from Route 303, and the signs on the rear of the building are directional signs for each bay and informational by the entrance door to "Ring bell for assistance".
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 Board overrode modification #1 of the Rockland County Department of Planning NYS General Municipal Law (GML) §239-m

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letter dated January 10, 2018 because these signs for this building are proportioned nicely to the building and the building is set back approximately 120 feet from Route 303.

4. The requested signage variance, 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 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 signage variance is **APPROVED** and to override modification #1 of the Rockland County Department of Planning GML §239-m letter dated January 10, 2018, because the building is set back approximately 120 feet from Route 303 and the signs on the rear of the building are directional signs for each bay and informational by the entrance door to "Ring bell for assistance" ; 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.

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(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 signage variance is APPROVED and to override modification #1 of the Rockland County Department of Planning GML § 239-m letter dated January 10, 2018, because the building is set back approximately 120 feet from Route 303 and the signs on the rear of the building are directional signs for each bay and informational by the entrance door to "Ring bell for assistance" ;; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco 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: January 17, 2018

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 CLERK'S OFFICE
2018 FEB 12 P 12:58
TOWN OF ORANGETOWN

DECISION

EXTENSION OF TIME TO IMPLEMENT SIGN SIZE, ILLUMINATION AND LOCATION VARIANCES GRANTED

To: Geraldine Tortorella (Orangetown Commerce)
Hocherman, Tortorella & Wekstein LLP
1 North Broadway Suite 701
White Plains, NY 10601-2319

ZBA #18-06
Date: January 17, 2018
Permit # 45232

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-06: Application of Orangetown Commerce Center for an extension of time to implement variances that were granted in ZBA# 16-62: variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.11, Column 5 #7 (Total Sign Area shall not exceed 60 sq. ft.: illuminated area of sign : 30 sq. ft. permitted: 240 sq. ft. proposed) and #8 c (sign setback: 30' required, 6'10" and 3' proposed) for two (2) internally lite freestanding signs. The premises are located at 5 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 2; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 17, 2018 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Esq., appeared and testified.

The following documents were presented:

1. As-built survey for tax lot 77.08-5-33.1 dated 05/27/2015 with the last revision date of 10/26/2017 signed and sealed by Jay A. Greenwell, PLS, LLC.

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 seeks area or bulk variances for construction or expansion of a primary, or accessory or appurtenant, non – residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Mr. Bosco was absent.

Geraldine Tortorella, Esq., testified that they appeared for final approval on the project on December 16, 2016; that the site is contaminated and is under the Brownfields remedial action work plan; that they were working on the drainage plan and received outside engineering approval in September 2017 and they have posted the performance bond and hope to start everything in the Spring 2018 and would really appreciate an extension of time.

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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. No significant change in circumstances has occurred since the prior approved variances were granted in ZBA 16-62 that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect construction to begin in the Spring 2018.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested extension of time to implement the variances granted in ZBA#16-62 for sign size, Illumination, and location 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.


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The foregoing resolution to approve the application for the requested extension of time to implement variances granted in ZBA #16-62 for sign size, illumination and location variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: January 17, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

EXTENSION OF TIME TO IMPLEMENT HEIGHT VARIANCES GRANTED

To: Geraldine Tortorella (Orangetown Commerce)
Hocherman, Tortorella & Wekstein LLP
1 North Broadway Suite 701
White Plains, NY 10601-2319

ZBA #18-07
Date: January 17, 2018
Permit # 45127

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-07: Application of Orangetown Commerce Center for an extension of time to implement the height variances that were granted in ZBA#16-63: variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.12, Column 12 (Building Height : 25' permitted, 30' proposed to roof, 32 ½ ' proposed to parapet) for a new commerce center. The premises are located at 5 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 2; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 17, 2018 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Esq., appeared and testified.

The following documents were presented:

1. As-built survey for tax lot 77.08-5-33.1 dated 05/27/2015 with the last revision date of 10/26/2017 signed and sealed by Jay A. Greenwell, PLS, LLC.

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

Geraldine Tortorella, Esq., testified that they appeared for final approval on the project on December 16, 2016; that the site is contaminated and is under the Brownfields remedial action work plan; that they were working on the drainage plan and received outside engineering approval in September 2017 and they have posted the performance bond and hope to start everything in the Spring 2018 and would really appreciate an extension of time.

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 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 May 11, 2016 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."), 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; Mr. Feroldi, aye;

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Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Mr. Bosco was absent.
Orangetown Commerce Center height
ZBA#18-07 Permit #45127
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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. No significant change in circumstances has occurred since the prior approved variances were granted in ZBA# 16-63 that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect construction to begin in the Spring of 2018.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested extension of time to implement the variances granted in ZBA#16-63 for Building Height: 25' permitted, 30' proposed to roof, 32 ½ ' proposed to parapet 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.


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The foregoing resolution to approve the application for the requested extension of time to implement the height variance granted in ZBA#16-63 is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: January 17, 2018

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
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TOWN CLERK'S OFFICE

DECISION

REAR YARD VARIANCE APPROVED

To: Romina Margiotta
423 White Oak Road
Palisades, New York 10964

ZBA #18-08
Date: January 17, 2018
Permit # 46339

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-08: Application of Romina Margiotta for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Column 11 (Rear Yard: 45' required, 21' proposed) for a deck at an existing single-family residence. The premises are located at 423 White Oak Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 77.20, Block 1, Lot 24; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 17, 2018 at which time the Board made the determination hereinafter set forth.

Romina Margiotta appeared and testified.

The following documents were presented:

1. Copy of plot pan with pool and deck drawn on it.
2. Deck plan drawing.
3. A letter dated January 14, 2018 from an abutting property owner expressly concerns about water and privacy.

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. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

Romina Margiotta testified that she has a permit for the pool and deck and filed a hold harmless and indemnification agreement with the Town of Orangetown concerning the drainage easement; that she was notified during the construction that the rear yard variance was needed; that she has owned the house since July 2016 and has not had any flooding; that they did remove 7 trees and plant green giant arborvitae in the back yard at a cost of \$12,000.00; that she wants privacy for herself and her neighbors; and that the rear yard is 19.6'.

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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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has planted green giant arborvitae to provide privacy and to help with the wet yard. A "hold harmless agreement" has been filed with the Town of Orangetown because a portion of the pool/deck is in their right-of-way.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has planted green giant arborvitae to provide privacy and to help with the wet yard. A "hold harmless agreement" has been filed with the Town of Orangetown because a portion of the pool/deck is in their right-of-way.
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 applicant has planted green giant arborvitae to provide privacy and to help with the wet yard. A "hold harmless agreement" has been filed with the Town of Orangetown because a portion of the pool/deck is in their right-of-way.
4. The requested rear yard variance, 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 purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN CLERK'S OFFICE
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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested rear 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.


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The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco 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: January 17, 2018

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
2018 FEB 12 P 12:59
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