

MINUTES  
ZONING BOARD OF APPEALS  
July 31, 2024

MEMBERS PRESENT:      MICHAEL BOSCO, CHAIRMAN  
                                 ROBERT BONOMOLO, JR.  
                                 BILLY VALENTINE  
                                 THOMAS QUINN  
                                 ANTHONY DEROBERTIS, ALTERNATE

ABSENT:                      PATRICIA CASTELLI

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

ELITE AUTO & COLLISION CORP. ANDREI & OLGA MENIKOV FAMILY TRUST 1159 Route 9W Nyack, New York 66.17 / 2 / 18; RG - zone	VARIANCES APPROVED W CHANGE SALES REMOVED	ZBA#24-37
VASCONEZ 92 Hardwood Drive Tappan, New York 74.17 / 4 / 22; R-15 - zone	VARIANCES APPROVED W CHANGE	ZBA#24-38
NOONAN'S BACKYARD DINING PLAN 14 – 20 E Central Avenue Pearl River, New York 68.20 / 1/ 13; CS - zone	APPROVED	ZBA#24-39
NOONAN'S BACKYARD DINING PLAN 14 – 20 E Central Avenue Pearl River, New York 68.20 / 1/ 14; CS - zone	APPROVED	ZBA#24-39A
LENNOX 47 W Carroll Street Pearl River, New York 68.12 / 1 / 38; RG – zone	APPROVED	ZBA#24-40

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

TOWN CLERK'S OFFICE  
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TOWN OF ORANGETOWN

The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: **RESOLVED**, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: 25 Whittier Road Subdivision (Minor Subdivision – 3 lots), 25 Whittier Road, Blauvelt, New York 65.18 / 1 / 13; LO zone; and **FURTHER RESOLVED**, to request to be notified by the Planning Board of SEQRA proceedings.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:00 P.M.

Dated: July 31, 2024

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Katlyn Bettmann, Senior Clerk Typist

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

TOWN OF ORANGETOWN  
2024 JUN 21 P 1:10  
TOWN CLERK'S OFFICE

**DECISION**

**§ 9.34 VARIANCE APPROVED AS MODIFIED WITH OVERRIDES**

To: Jonathon Hodash(Elite Auto & Collision Corp)  
120 North Main Street (Andrei & Olga Melnikov Family Trust)  
Suite 501  
New City, NY 10956

ZBA #24-37  
Date: ~~September 4, 2024~~ July 31, 2024  
Permit # BLDC-4922-24

KB

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 24-37: Application of Elite Auto & Collision Corp. (Andrei & Olga Melnikov Family Trust), for variances from Zoning Code (Chapter 43), Section 3.11, RG district, Group Q (Expansion of existing - approved - nonconforming Auto Repair and sales), Section 9.34(one-time nonconforming expansion used as convenient store has been removed for expansion) to expand an existing nonconforming auto repair with car sales ZBA#75-78 and remove existing convenience store. The premises are located at 1159 Route 9W, Nyack, New York and identified on the Orangetown Tax Map as Section 66.17, Block 2, Lot 18 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 31, 2024 at which time the Board made the determination hereinafter set forth.

Jonathon Hodash, Architect, Timoffy Melnikov, owner, and Vulfrano Lazcares, Elite Auto & Collision Corp., appeared and testified.

The following documents were presented:

1. Plans, labelled "Melnikov Property" revised April 9, 2024 signed and sealed by Jonathan Hodosh, R.A., (11 pages).
2. Survey dated July 15, 2021 signed and sealed by Robert E. Sorace, P.L.S..
3. A letter dated July 17, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A "this project is out the jurisdiction of this agency and has no further comments" from Dyan Rajasingham, Rockland County Highway Department, dated June 10, 2024.
5. "Comments attached" from Rockland County Department of Planning signed by Jake Palant dated June 12, 2024.
6. Four letters from neighbors in support of the project, submitted by the Applicant, at the Zoning Board meeting of July 31, 2024.

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

Jonathon Hodosh, Architect, testified that this location was used as a repair center and gas station as far back as 1974; that there was a fire in the past that required them to do repairs to the (former) restaurant; that they then converted the restaurant into living quarters in 1976; that the garage building has been continuously used as a service station and they are not proposing to change the use; that they will be adding a door on the North side to bring the building to code; that the building is to remain the same as it is today; that the increase included the bathroom which has existed but there are no changes to the building other than the façade; that the bathroom is a shared space that there is to be no additional square footage added to the building; that there originally was 3 bays and an office, and then was 3 bays and a convenience store; that they are now restoring the convenience store to an office and making 1 of the bays a spray booth; that the parking was discussed with Town of Orangetown Inspector Rick Oliver and they were informed they are allowed to use fourteen (14) spots only by right; that a convenience store and a garage have the same parking requirements; that a convenience store would have more vehicle traffic than a garage; that they keep cars out by the entrances due to cars trying to turn around in their driveway and almost running him over; that the cars across Route 9W with the cones around them belong to the neighbors across the street;

that there was an application on file in 2019 but with Covid and a combination of other things they got held up; that they anticipate no increase in business; that the current parking meets the parking requirements; that previously as a gas station there would be a constant in and out; that they do not wish to add sales to their application as that is not something they wish to dive into at this time; that this wouldn't currently be a use variance; that they are proposing two repair bays, a spray booth and an office; that it has been almost seven months since the last complaint and the application will also need IUC approval; that if for any reason they are unable to use the spray booth they will still use the bay;

Timoffy Melnikov, Owner, testified that he has possessed the property since 1996; that he has no use with the rental property and the Collision center sharing parking;

Vulfrano Lazcares, Elite Auto & Collision Corp., testified that in 2019 he submitted paperwork with the Town of Orangetown Building Department, and then the pandemic arose; that the allotted fourteen (14) parking spaces is enough for his business; that this is how the building existed since I have been there in 2019; that his workers leave for the day and come back at the end of the day, they don't store cars there; that when he moved in himself and the Landlord removed any parts and cars that were junk; that he has been following all of the guidance given by the Building Inspectors; that he has three garage bays still and the third one is a spray booth; that NYS DEC and the Town of Orangetown had visited the property several times for inspections regarding the spray booth; that he has gotten more expensive filters and works to keep the body shop in compliance;

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Quinn moved for a Board determination that the foregoing application seeks area or bulk variances for construction or expansion of primary, or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9); which does not require SEQRA environmental review. The motion was seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; and Mr. DeRobertis, aye. Mr. Quinn, aye; Mr. Valentine, aye. Ms. Castelli was absent.

Public Comment:

Michael Wang, 16 Shady Avenue, Nyack testified that he resides directly across from Elite Auto; that he was wondering about the legalization of spray booth which is zoned for a convenient store; that the change in grade is significant enough so the houses to the West side of the building sit above the shop; that up until last year the spray booth was venting directly into his apartment; that he had kept a log recording at least one-hundred and fifty instances between 2020 and 2023 when it became an issue significant enough for him to not be able to open his windows in the summer; that because of the stack height and the grade it goes directly into his home; that he brought the issue to the DEC; that this year has been better;

Mr. DeRobertis stated that there is a rental property on the other side of the property, and asked about the parking.

Mr. Valentine stated that the parking seems deficient, and asked if there will be an increase in business.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested § 9.34 variance, as modified to exclude auto sales, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Overall there will be no changes to the existing structure. The property has been a repair shop for decades. The former convenience store will return to its former use as an office and one of the pre-existing bays will now be a spray booth. The applicant will not use the property for auto sales and has removed that request from the application.
2. The requested 9.34 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Overall there will be no changes to the existing structure. The property has been a repair shop for decades. The former convenience store will return to its former use as an office and one of the pre-existing bays will now be a spray booth. The applicant will not use the property for auto sales and has removed that request from the application.
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 § 9.34 variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Overall there will be no changes to the existing structure. The property has been a repair shop for decades. The former convenience store will return to its former use as an office and one of the pre-existing bays will now be a spray booth. The applicant will not use the property for auto sales and has removed that request from the application.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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TOWN OF ORANGETOWN

Mr. Bosco made a motion to override comments #2, 3, 8 and 9 from the July 17, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, as follows: comment #2 because the applicant stated under oath that the vehicles stored between the front lot line and the edge of pavement of Route 9w do not belong to them, they belong to the neighbors; comment #3 because the body shop will have less traffic in and out than a convenience store would have; comment #8 the applicant has agreed to not sell any vehicles at the property and agrees to remove the word sales from the application; and comment #9 the applicant will not store any vehicles between the designated street line (DSL) and the street; which motion was seconded by Mr. Valentine and carried unanimously.

Mr. Bosco made a motion to approve the §9.34 variance (one-time expansion of a pre-existing non-conforming use) as modified to exclude auto sales; was seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. DeRobertis, aye; and Mr. Valentine, aye, Mr. Quinn, aye. Ms. Castelli was absent.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested § 9.34 variance, as modified to exclude auto sales are **APPROVED**; and **FURTHER RESOLVED**, to override comments #2, 3, 8 and 9 from the July 17, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, as follows: comment #2 because the applicant stated under oath that the vehicles stored between the front lot line and the edge of pavement of Route 9w do not belong to them, they belong to the neighbors; comment #3 because the body shop will have less traffic in and out than a convenience store would have; comment #8 the applicant has agreed to not sell any vehicles at the property and agrees to remove the word sales from the application; and comment #9 the applicant will not store any vehicles between the designated street line (DSL) and the street; that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

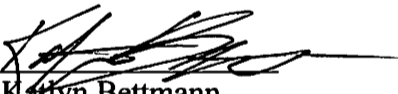
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown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

The foregoing resolution to approve the application for the requested § 9.34 variance, as modified to exclude auto sales is APPROVED; and FURTHER RESOLVED, to override comments from the July 17, 2024 letter from Rockland County Department of Planning, signed by Douglas J. Schuetz, Acting Commissioner of Planning, comment #2 because the applicant stated under oath that the vehicles stored between the front lot line and the edge of pavement of Route 9w do not belong to them, they belong to the neighbors; comment #3 because the body shop will have less traffic in and out than a convenient store would have; comments #4 and #5 were done; comment #6 a review will be requested to be do be completed by the Town of Orangetown Fire Inspector and a sign-off will be required in order for the plans to be stamped and the permit to be issued; comment #8 the applicant agrees to remove the word sales from the application as the use of the property; and comment #9 the Designated Street line (DSL) will be indicated on the site plan, revised plans will be submitted for stamping, they are not storing any vehicles between the DSL and the street; was presented and moved by Mr. DeRobertis, seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. DeRobertis, aye; and Mr. Valentine, aye, Mr. Quinn, aye. Ms. Castelli was absent.

The Senior Clerk Typist 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: July 31, 2024

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Kathryn Bettmann  
Senior Clerk Typist

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2024 AUG 21 P 1:11  
TOWN OF ORANGETOWN

**DECISION**  
**FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND REAR YARD**  
**VARIANCES APPROVED W CONDITION**

To: Raul Vasconez  
92 Hardwood Drive  
Tappan, NY 10983

ZBA #24-38  
Date: ~~September 4, 2024~~ July 31, 2024 <sup>KS</sup>  
Permit # POOLR-4901-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-38: Application of Jennifer Vasconez, for variances from Zoning Code (Chapter 43), Section 3.12, R-15 district, Group M, Column 2 (floor area ratio: 20% permitted, with 23.8% proposed), Column 9(side yard: 20' required, with 13' proposed), Column 10(total side yard: 50', with 34.6' proposed). From Section 5.227(pool rear yard setback: 20' required, with 10' proposed) for a two-story garage addition, a pool, a paver patio with an outdoor fireplace, and retaining walls at an existing single-family dwelling. The premises are located at 92 Hardwood Drive, Tappan, New York and identified on the Orangetown Tax Map as Section 74.17, Block 4, Lot 22 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, September 4, 2024 at which time the Board made the determination hereinafter set forth.

Raul & Jennifer Vasconez, homeowners, Gabriel Ricciardi, swimming pool consultant, and Kelvin Vega, builder, appeared and testified.

The following documents were presented:

1. Site plan, "Proposed Renovation – site plan", revised May 20, 2024 signed and sealed by Bart M. Rodi, Engineer (1 page).
2. Plans, "Proposed Renovation – Proposed New Garage", revised May 20, 2024 signed and sealed by Bart M. Rodi, Engineer (1 page).
3. Survey, revised July 13, 1966 signed by Alfred Alfred R. Vogl L.S..
4. Proposed Survey, dated April 29, 2024, by Bart M. Rodi, Engineer (1 page).
5. A letter dated July 19, 2024 in support of the project, signed by twenty-five (25) of their neighbors, submitted by the applicant at the Zoning Board meeting of July 31, 2024(3 pages).
6. Computer generated pictures of surrounding houses and aerial views of pools, submitted by the applicant at the Zoning Board meeting of July 31, 2024(10 pages).
7. Computer generated pictures of flooding in the area, submitted by the Richard Cardazone from 68 Hardwood Drive, Orangeburg, at the Zoning Board meeting of July 31, 2024 (4 pages).

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

Raul Vasconez testified that he has lived in the home since 2018; that he has a garage existing and this would be a 2 story garage addition; an additional garage (they would be side by side) with a new walk in closet in the living space above it; that they have duplicated what their neighbors have at 103 Hardwood Drive; that they have a lot of Christmas decorations and kids toys that he would like to store in the garage; and his wife's things in the new closet above; that they have five people living in the home and they are lacking on the storage and closet space; that they are also looking to put a pool in the yard; that the bushes and trees will be staying and will be adding some evergreens to make it a much nicer look; that the walls on the other side of the existing patio are four (4') feet high;

Gabriel Ricciardi testified that currently there is just a driveway where they would like to put the garage and addition; that there would be living space upstairs for the master with a closet; that the homeowners have ATV's and want to be able to store them inside; that it will look a lot nicer in the neighborhood for everything to be stored inside the garage;



that the fireplace is seven and half ( 7.5') feet high; that the pool rock structure is a waterfall, it can be moved around, it is a landscape feature; that there are other houses in the neighborhood that are similar sizes with living spaces above the garage; that the pool equipment will be kept behind the rock structure ten or eleven (10' or 11') feet away from the property line, outside of the easement; that they will be decreasing the water on the property because they will be capturing eight hundred (800 s.f.) square feet;

Chairperson Bosco stated that the rock structure should not be further out than the pool itself. Mr. Bosco also stated that the applicant cannot create more water, and that if the public has concerns with drainage they should bring that to the attention to the Town of Orangetown Engineer or the Building Department to be handled through the building code.

Mr. Valentine stated that he had no concerns with the pool, but that he felt the house seemed out of character with the neighborhood.

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

Public Comment:

Richard Cardazone – 68 Hardwood Drive, Orangeburg, testified that the Applicants seem like nice people; that he has been living in his home for thirty (30) years; that the impervious area, based on the calculating the plan quickly, would include the patio which has existed for the past few years; that they have been prone to water issues in that area ever since this development has been built; that there was a lawsuit in the past from these houses being built; that the houses at the bottom of the street all have two sub pumps; that prior to these houses being built they barely ever had water so we could disconnect one sub pump; that nowadays for whatever reasons both pumps are running multiple times an hour; that the south side is always wet; that it is not just that the water can be seen; that the water is racing through the back of his yard; that he believes that there may be a catch basin in the Vasconez's backyard that the Town of Orangetown does not maintain; that in July of last year, as seen in the supplied pictures, it is visible that it is flowing water; and that the water jumps the curb and side walk.

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. Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Valentine 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, side yard, total side yard, and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions and pools exist in the neighborhood.

2. The requested floor area ratio, side yard, total 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. Similar additions and pools exist 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, side yard, total side yard, and rear yard variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions and pools exist 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 improvement, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio, side yard, total side yard, and rear yard variances are **APPROVED**; with the following **SPECIFIC CONDITION(1)** move rocks (landscape feature) behind 10-foot setback; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

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

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard, and rear yard variances are APPROVED; with the following SPECIFIC CONDITION (1) move rocks (landscape feature) behind 10-foot setback; was presented and moved by Mr. Bonomolo, seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. DeRobertis, aye; and Mr. Valentine, aye, Mr. Quinn, aye. Ms. Castelli was absent.

The Senior Clerk Typist 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: July 31, 2024

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Katlyn Bettmann  
Senior Clerk Typist

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2024 AUG 21 PM 4:11  
TOWN OF ORANGETOWN

**DECISION**

**LOT 13: SIDE YARD, REAR YARD TO CHILLER, REAR YARD TO FABRIC COVERED STEEL FRAME, ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED**

To: Donald Brenner (Noonan's)  
4 Independence Avenue  
Tappan, NY 10983

ZBA #24-39  
Date: July 31, 2024  
Permit # BLDC-540-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-39: Application of Noonan's Backyard Dining Plan, for variance from Zoning Code (Chapter 43), CS district, Section 3.12, Group FF, Lot: 13; Column 9 (Side Yard: required is 0/12 feet with 1.9' proposed) to the chiller/covered bar, Column 11(Rear Yard: 25 feet required, 6.6' proposed) to chiller, Column 11(Rear Yard: 25 feet required, 8.5' proposed) to the fabric covered steel frame structure; and from Section 5.153(Accessory structure distance: 15' required, with 11.3' proposed) for a roof over a covered bar area from the rear of the main building. The premises are located at 14-16 E Central Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 13 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 31, 2024 at which time the Board made the determination hereinafter set forth.

Donald Brenner, attorney, Jay Greenwell, surveyor, Larry Vergine, owner, appeared and testified.

The following documents were presented:

1. Site plans, "14-16 East Central Ave", dated January 17, 2024 signed and sealed by Jay A. Greenwell, PLS. (1 page).
2. Site plans, "20 East Central Ave", dated January 17, 2024 signed and sealed by Jay A. Greenwell, PLS. (1 page).
3. Existing conditions plan, "14-16-20 East Central Ave", dated January 17, 2024 signed and sealed by Jay A. Greenwell, PLS. (1 page).
4. Architectural plans, "T.F. Noonan's restaurant outdoor dining expansion", with the most recent revision date of July 21, 2023, signed and sealed by Harry J. Goldstein, R.A. (2 pages).
5. A letter dated July 16, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated July 16, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A "comments attached" from Rockland County Department of Planning signed by Jake Palant dated June 21, 2024.

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

Donald Brenner, attorney, testified that in 2020 the pandemic hit and the Town of Orangetown passed a local law for outdoor dining; that his client then put in an outdoor area where his customers could go for smoking; that then they put in an application for an outdoor fireplace; that he believes part of the structure was built in 2020; that they are in the process of certifying the permanent facility; that the steel open structure is to hold televisions and they have a cover over it like a canopy; that previously this was a tent but they wanted a permanent structure and something that could hold the televisions; that the backyard properties who abut them have never complained; and that they serve good food.

TOWN CLERK'S OFFICE

2024 AUG 21 P 11

TOWN OF ORANGETOWN

Larry Vergine, owner, testified that the structure was built in 2021 and covered in 2022.

Jay Greenwell, surveyor, testified that the steel frame structure is considered in the FAR because it is of the roof; that lot 13 is the reason for the FAR variance not lot 14; that the combined FAR for the two lots is much lower; that lot 14 is .44 and lot 13 is 1.04; that this is a self-supporting structure; that the fabric covered structure crosses the property line; that the fence was approved in the previous decision; that the pizza oven which is located in the south west corner was also previously approved;

Chairperson Bosco stated that the plan is nice looking and serves its purpose.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Bosco moved for a Board determination that, since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted a SEQRA review and on April 24, 2024 (as set forth in PB#23-49) for Preliminary Site Plan approval subject to Conditions, 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 Regulation § 617.6 (b) (3). The motion was seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; and Mr. DeRobertis, aye. Mr. Quinn, aye; Mr. Valentine, aye. Ms. Castelli 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. Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Valentine 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 side yard, rear yard, and accessory structure distance variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The structure is self-supporting and, well constructed. It serves the purpose that it was intended for.
2. The requested side yard, rear yard, and accessory structure distance variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The structure is self-supporting and, well constructed. It serves the purpose that it was intended for.

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 side yard, rear yard, and accessory structure distance variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The structure is self-supporting and, well constructed. It serves the purpose that it was intended for.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard, rear yard, and accessory structure distance 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.

2024 AUG 21 P 1:12

TOWN OF ORANGETOWN

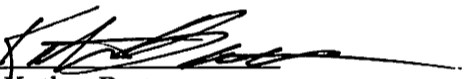
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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.

LOT 13:

The foregoing resolution to approve the application for the requested side yard, rear yard, and accessory structure distance variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. DeRobertis, aye; and Mr. Valentine, aye, Mr. Quinn, aye. Ms. Castelli was absent. The Senior Clerk Typist 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: July 31, 2024

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Katlyn Bettmann  
Senior Clerk Typist

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2024 AUG 21 P 1:12  
TOWN OF ORANGETOWN

## DECISION

### LOT 14: REAR YARD VARIANCE APPROVED

To: Donald Brenner (Noonan's)  
4 Independence Avenue  
Tappan, NY 10983

ZBA #24-39A  
Date: July 31, 2024  
Permit # BLDC-540-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-39A: Application of Noonan's Backyard Dining Plan, for variance from Zoning Code (Chapter 43), CS district, Section 3.12, Group FF, Lot: 14; Column 11(Rear Yard: 25 feet required, 8.5' proposed) to the fabric covered steel frame structure. The premises are located at 18-20 E Central Avenue, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 14 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 31, 2024 at which time the Board made the determination hereinafter set forth.

Donald Brenner, attorney, Jay Greenwell, surveyor, Larry Vergine, owner, appeared and testified.

The following documents were presented:

1. Site plans, "14-16 East Central Ave", dated January 17, 2024 signed and sealed by Jay A. Greenwell, PLS. (1 page).
2. Site plans, "20 East Central Ave", dated January 17, 2024 signed and sealed by Jay A. Greenwell, PLS. (1 page).
3. Existing conditions plan, "14-16-20 East Central Ave", dated January 17, 2024 signed and sealed by Jay A. Greenwell, PLS. (1 page).
4. Architectural plans, "T.F. Noonan's restaurant outdoor dining expansion", with the most recent revision date of July 21, 2023, signed and sealed by Harry J. Goldstein, R.A. (2 pages).
5. A letter dated July 16, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated July 16, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A "comments attached" from Rockland County Department of Planning signed by Jake Palant dated June 21, 2024.

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

Donald Brenner, attorney, testified that in 2020 the pandemic hit and the Town of Orangetown passed a local law for outdoor dining; that his client then put in an outdoor area where his customers could go for smoking; that then they put in an application for an outdoor fireplace; that he believes part of the structure was built in 2020; that they are in the process of certifying the permanent facility; that the steel open structure is to hold televisions and they have a cover over it like a canopy; that previously this was a tent but they wanted a permanent structure and something that could hold the televisions; that the backyard properties who abut them have never complained; and that they serve good food.

Larry Vergine, owner, testified that the structure was built in 2021 and covered in 2022.

Jay Greenwell, surveyor, testified that the steel frame structure is considered in the FAR because it of the roof; that lot 13 is the reason for the FAR variance not lot 14; that the combined FAR for the two lots is much lower; that lot 14 is .44 and lot 13 is 1.04; that this is a self-supporting structure; that the fabric covered structure crosses the property line; that the fence was approved in the previous decision; that the pizza oven which is located in the south west corner was also previously approved;

Chairperson Bosco stated that the plan is nice looking and serves its purpose.



On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Bosco moved for a Board determination that, since the Planning Board noticed its intent to declare itself Lead agency and distributed that notice of intention to all involved agencies, including the Zoning Board of Appeals who consented or did not object to the Planning Board acting as Lead Agency pursuant to coordinated review under the State Environmental Quality Review Act Regulation § 617.6 (b) (3); and since the Planning Board conducted a SEQRA review and on April 24, 2024 (as set forth in PB#23-49) for Preliminary Site Plan approval subject to Conditions, 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 Regulation § 617.6 (b) (3). The motion was seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; and Mr. DeRobertis, aye. Mr. Quinn, aye; Mr. Valentine, aye. Ms. Castelli 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. Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Valentine 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 structure is self-supporting and, well constructed. It serves the purpose that it was intended for.
2. The requested rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The structure is self-supporting and, well constructed. It serves the purpose that it was intended for.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested rear yard variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The structure is self-supporting and, well constructed. It serves the purpose that it was intended for.

5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN CLERK'S OFFICE  
2024 APR 24 10:10 AM  
TOWN OF ORANGETOWN

**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.

TOWN CLERK'S OFFICE  
2024 AUG 21 P 1:12  
TOWN OF ORANGETOWN


LOT 14:

The foregoing resolution to approve the application for the requested rear yard variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. DeRobertis, aye; and Mr. Valentine, aye, Mr. Quinn, aye. Ms. Castelli was absent.

The Senior Clerk Typist 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: July 31, 2024

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Katlyn Bettmann  
Senior Clerk Typist

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2024 AUG 21 P 1:13  
TOWN OF ORANGETOWN

**DECISION**  
**FRONT YARD SETBACK AND §9.2 EXPANSION OF NON-CONFORMING BULK**  
**FRONT YARD VARIANCE APPROVED**

To: William M, Lennox  
47 W Carroll Street  
Pearl River, NY 10965

ZBA #24-40  
Date: July 31, 2024  
Permit # BLDR-5153-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-40: Application of William Lennox, for variances from Zoning Code (Chapter 43), RG District, Section 3.12, Group Q, Column 8 (Front Yard: minimum setback 25' required, with 5.9' proposed to Designated Street Line per Section 5.111), and from section 9.2 expansion of non-conforming bulk (Front Yard: existing garage 2.8' to designated street line per section 5.111) for a carport attached to a garage, for an existing accessory structure in a front yard. The premises are located at 47 W Carroll Street, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.12, Block 1, Lot 38 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, July 31, 2024 at which time the Board made the determination hereinafter set forth.

William and Caitlin Lennox, homeowners, appeared and testified.

The following documents were presented:

1. Site plan, "proposed carport", revised May 20, 2024 signed and sealed by Robert E. Sorace, PLS. (1 page)
2. Survey dated May 1, 2024 signed and sealed by Robert E. Sorace, PLS.
3. A drawing of specifications of footings, brackets, posts, etc., prepared by "Lennox" May 2, 2024 (1 page).
4. A letter dated July 18, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated July 22, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated July 23, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A "comments attached" from Rockland County Department of Planning signed by Jake Palant dated June 28, 2023.
8. An email dated July 31, 2024, from Charles McGillick, submitted by the Applicant at the Zoning Board meeting of July 31, 2024.

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

William Lennox testified that the use of the carport is covered storage for a vintage truck; that previously when he appeared in front of the Zoning Board for approval his lot had two front yards; that since that time the roadway formerly known as Second Street has been demapped and deeded to himself and three other neighbors; that due to the demapping there is no longer two front yards and the property gained an additional twenty five (25') feet; that the carport begins at one (1') foot behind where the garage begins;

Chairperson Bosco stated that the carport is twenty-one (21') feet from the side yard, not the front yard, and that no variance should be required. That the carport is not coming out any further.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard setback and § 9.2 expansion of non-conforming bulk front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The neighbor directly affected submitted a letter of support. The carport is no closer than the existing garage which was approved prior.
2. The requested front yard setback and § 9.2 expansion of non-conforming bulk front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The neighbor directly affected submitted a letter of support. The carport is no closer than the existing garage which was approved prior.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard setback and § 9.2 expansion of non-conforming bulk front yard variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The neighbor directly affected submitted a letter of support. The carport is no closer than the existing garage which was approved prior.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested front yard setback and § 9.2 expansion of non-conforming bulk front 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.

TOWN CLERK'S OFFICE  
2024 AUG 21 P 1:13  
TOWN OF ORANGETOWN

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard setback and § 9.2 expansion of non-conforming bulk front yard variances are APPROVED; was presented and moved by Mr. Valentine, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. DeRobertis, aye; and Mr. Valentine, aye, Mr. Quinn, aye. Ms. Castelli was absent.

TOWN CLERK'S OFFICE

2024 AUG 21 P 4:13

TOWN OF ORANGETOWN

The Senior Clerk Typist 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: July 31, 2024

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Katlyn Bettmann  
Senior Clerk Typist

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2024 AUG 21 P 1:13  
TOWN CLERK'S OFFICE