

MINUTES
ZONING BOARD OF APPEALS
October 2, 2019

MEMBERS PRESENT: THOMAS QUINN
MICHAEL BOSCO
JOAN SALOMON
PATRICIA CASTELLI,

ABSENT: DAN SULLIVAN
LEONARD FEROLDI, ALTERNATE

ALSO PRESENT: Ann Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney

This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting Chair.

Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

SEVENTH DAY ADVENTIST
CHURCH SIGN
210 North Middletown Road
Pearl River, NY
69.09 / 2 / 52; R-15 zone

APPROVED AS AMENDED

ZBA#19-47

NEW ITEMS:

SWEETMAN
167 Liberty Road
Tappan, NY
77.05 / 3 / 55; R-15 zone

ACCESSORY STRUCTURE
DISTANCE TO PRIMARY STRUCTURE
VARIANCE APPROVED

ZBA#19-89

PATEL
2 Bollinger Court
Tappan, New York
77.07 / 2 / 3.2; R-15 zone

FLOOR AREA RATIO AND
SIDE YARD VARIANCE APPROVED

ZBA#19-90

ROOST RESTURANT AT 2 UNION
2 Union Street
Sparkill, NY
77.08 / 5 / 16; CS zone

OFF-STREET PARKING,
ACCESSORY STRUCTURE TO PRIMARY
STRUCTURE, SIDE YARD SHALL BE UNOBSTRUCTED,
AND REAR YARD VARIANCES APPROVED

ZBA#19-91

TOWN CLERK'S OFFICE
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THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.


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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:10 P.M.

Dated: October 2, 2019

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
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DECISION

**SIGN SIZE: MODIFIED TO 45.4 SQ. FT. AND LOCATION: 1' 6" SET BACK
VARIANCES APPROVED AS MODIFIED: THIS DECISION SUPERCEDES ZBA#16-43
DATED JUNE 1, 2016**

To: John Halsey (Seventh Day Sign)
38 Island Road
Mahwah, New Jersey 07430

ZBA #19-47
Date: May 15, 2019; September 4, 2019
October 2, 2019
Permit #46685

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 19-47: Application of Seventh Day Adventist Church for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.11, refers to R-80 District, Part II, Column 5 Paragraph 12 (Sign size: 20 sq. ft. illuminated permitted, 57 sq. ft. proposed [double sided sign: **modified to 17.7 sq. ft. per side: 35.4 sq. ft. for two sided LED Display Sign remote control programmed display approved**] ; also # 12 Non-illuminated: 2' sq. ft. permitted, **10' sq. ft. proposed : 5 sq. ft. double-sided for the words "Pearl River Seventh Day Adventist Church" approved**) total signage proposed is **45.4 sq. ft.** and (sign set back: 25' required, 1' 6" proposed) (**facing the street the # 210 is approved as an address-no variance needed**) for a two-sided church sign. The Church is located at 210 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 2, Lot 52; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, May 15, 2019, September 4, 2019 and October 2, 2019 at which time the Board made the determination hereinafter set forth.

John Halsey, Architect, and Lloyd Scheffenberg appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Sign Installation Pearl River Seventh Day Adventist Church" dated September 14, 2016 with the latest revision date of April 1, 2019 signed and sealed by John Halsey, Architect. (1 page)
2. A letter dated May 1, 2019 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated April 9, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
4. Zoning Board of Appeals #16-43 dated June 1, 2016

At the May 15, 2019 hearing Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

At the May 15, 2019 hearing, Lloyd Scheffenberg requested a continuance so that the application could be heard by a full board.

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At the October 2, 2019 hearing, on advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli moved for a Board determination that the foregoing application seeks to construct or expand a primary or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet or gross floor area, and not involving change in zoning or a use variance and consistent with local land use controls, but not radio communications or microwave transmission facilities, 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. Quinn and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Submitted at the September 4, 2019 hearing:

1. Four pictures of larger signs in the area submitted by the applicant.

At the September 4, 2019 meeting, John Halsey, Architect, testified that he appeared before the Board in 2016 and got approved for a slightly smaller sign, that there was some confusion among the church members regarding the size of the sign; that the Church committee wanted the larger sign and that is why they are back ; that they are proposing a two sided sign that is 57 sq. ft. and letters below the sign that are a total of 10 sq. ft. for a total of 67 sq. ft. of signage; that they would like a continuance to talk over the boards proposal with the Church committee.

Lloyd Scheffenberg submitted several pictures of other signs in the area that are larger than they are requesting and testified that the Church Committee would prefer the larger sign; that they need to be able to control the sign remotely to change messages; that there would not be any rapid changes to distract drivers; and they would like a continuance to discuss the suggestions from the board with the Church Committee.

Dan Sullivan pulled out the previously approved sign and found an error in the decision, that the previous decision did not include the letters on the masonry base and those letters would add 10 sq. ft. to the previously approved sign and he suggested that the Board would be more inclined to correct and approve that sign, rather than the larger sign that is being proposed presently. Mike Bosco also commented that he would not feel comfortable approving a larger sign and that he would not be able to over-ride the County letter; Trish Castelli and Joan Salomon agreed.

Public Comment:

No public comment

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October 2, 2019

No new items were submitted for review.

John Halsey, Architect, and Lloyd Scheffenberg appeared and testified.

John Halsey testified that they went back and had a meeting with the members of the Church Board and they would like to take the suggestions of the Zoning Board and ask to keep the previously approved sign from the June 1, 2016 meeting and add the ten square feet for the non-illuminated name of the church on the brick planter foundation,(PEARL RIVER SEVENTH DAY ADVENTIST CHURCH) 5 sq. ft. per side for a total of 45.4 sq. ft. of signage at the same location (1' 6" from the front property line) and that they appreciate being able to add the street number at the street side of the brick planter.

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Ms. Salomon 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 modified sign size (45.4 sq. ft.) and sign location (1' 6" set back) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has reduced his request from the originally requested 67 sq. ft. of signage to a more reasonable 45.4 sq. ft. total signage and the location of the sign is remaining as requested. The location and size of the proposed sign as modified will allow the church to be easily identified from the roadway, without interfering with traffic flow. Because the proposed size of the sign was reduced so much the Board did not feel an over-ride vote was necessary for comment #1 from the Department of Planning letter dated May 1, 2019. This action will supercede prior decision in ZBA#16-43 dated June 1, 2016.
2. The LED display sign shall be double sided 17.7 sq. ft. per side and the letters on the brick planter shall measure 5 sq. ft. per side and the Board is allowing the street number to be added to the street side of the brick planter and not counting that as signage because it is a street number. Because the proposed size of the sign was reduced so much the Board did not feel an over-ride vote was necessary for comment #1 from the Department of Planning letter dated May 1, 2019. This action will supercede prior decision in ZBA#16-43 dated June 1, 2016.

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3. The requested modified sign size (45.4 sq. ft.) and sign location (1' 6" set back) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has reduced his request from the originally requested 67 sq. ft. of signage to a more reasonable 45.4 sq. ft. total signage and the location of the sign is remaining as requested. The location and size of the proposed sign as modified will allow the church to be easily identified from the roadway, without interfering with traffic flow. This action will supercede prior decision in ZBA#16-43 dated June 1, 2016.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested modified sign size (45.4 sq. ft.) and sign location (1' 6" set back) variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant has reduced his request from the originally requested 67 sq. ft. of signage to a more reasonable 45.4 sq. ft. total signage and the location of the sign is remaining as requested. The location and size of the proposed sign as modified will allow the church to be easily identified from the roadway, without interfering with traffic flow. This action will supercede prior decision in ZBA#16-43 dated June 1, 2016.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested modified sign size 45.4 sq. ft. and sign location (1' 6" set back) variances are APPROVED with the Specific Condition that the applicant obtain a work permit from the Rockland County Highway Department: This action will supercede prior decision in ZBA#16-43 dated June 1, 2016; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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

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Seventh Day Adventist sign
ZBA#19-47
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Permit #46685

The foregoing resolution to approve the application for the requested modified (45.4 sq. ft.) sign size and sign location (1'6" setback) variances are APPROVED with the Specific Condition that the applicant obtain a work permit from the Rockland County Highway Department(and this action will supercede prior decision in ZBA#16-43 dated June 1, 2016) was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan 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: October 2, 2019

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
2019 OCT -8 P 3:19
TOWN CLERK'S OFFICE

DECISION

**ACCESSORY STRUCTURE DISTANCE TO PRIMARY STRUCTURE VARIANCE
APPROVED**

To: Stephen Sweetman
167 Liberty Road
Tappan, New York 10983

ZBA #19-89
Date: October 2, 2019
Permit #49203

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19:89 Application of Stephen Sweetman for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.153 (Accessory Structure Distance to Primary Structure: 15' required, 10' existing) for an existing shed at an existing single-family residence. The premises are located at 167 Liberty Road, Tappan New York and are identified on the Orangetown Tax Map as Section 77.05, Block 3, Lot 55 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 2, 2019 at which time the Board made the determination hereinafter set forth.

Stephen Sweetman and Vincent Sheridan appeared and testified.

The following documents were presented:

1. Survey of the property showing the location of the shed.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Quinn and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Stephen Sweetman testified that the shed has existed for a long time; that there had been two sheds on the property that were found to be in violation when he was selling his house and the title search was done; that he removed one of the sheds that was in poor condition; but kept this shed because it was in nicer condition; that the house has been sold and the new owners would like to keep it where it is presently located; that the yard is small and there is not another area to place the shed which houses equipment for the pool; and that he put money in escrow in order to move forward with the closing and if the Board approves the existing location of the shed, he will get that money back.

Public Comment:

No public comment

TOWN CLERK'S OFFICE
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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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Ms. Salomon 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 accessory structure distance to primary structure variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The shed has existed in its present location for some time without incident or complaint and the new owners of the property would like to maintain it its 'present location. There is no other place in the rear of the house to place the shed that would not require a variance.
2. The requested accessory structure distance to primary structure variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The shed has existed in its present location for some time without incident or complaint and the new owners of the property would like to maintain the present location of the shed. There is no other place in the rear of the house to place the shed that would not require a variance.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested accessory distance to the primary structure 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. The shed has existed in its present location for some time without incident or complaint and the new owners of the property would like to maintain the present location of the shed. There is no other place in the rear of the house to place the shed that would not require a variance.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN 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 accessory structure distance to the primary structure 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 OF ORANGETOWN
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested accessory structure distance to primary structure variance is APPROVED; was presented and moved by Ms. Caselli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan 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: October 2, 2019

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-M.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

FLOOR AREA RATIO AND SIDE YARD VARIANCES APPROVED

To: Mehesh Patel
2 Sgt. Bollinger Court
Tappan, New York 10983

ZBA #19-90
Date: October 2, 2019
Permit #49088

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-90: Application of Mehesh Patel for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 4 (Floor Area Ratio: .20 permitted, .25 proposed) and Column 9 (Side Yard: 20' required, 16' 4" proposed) for a covered deck at an existing single-family residence located at 2 Bollinger Court, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.07, Block 2, Lot 3.2; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 2, 2019 at which time the Board made the determination hereinafter set forth.

Rudolph Dupuy, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated July 18, 2019 labeled "Proposed Wood Deck Extension with Roof" signed and sealed by Rudolph Dupuy, Architect.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Quinn and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Rudolph Dupuy, Architect, testified that they are extending the existing deck along the back of the house but they are not encroaching any further into the side yards; and that part of the deck will have a roof and that is what is causing the floor area ratio variance.

Public Comment:

No public comment

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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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Ms. Salomon 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 and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks and covered porches exist in the neighborhood.
2. The requested floor area ratio and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks and covered porches 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 a variance.
4. The requested floor area ratio and side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar decks and covered porches 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 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.

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TOWN CLERK'S OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested floor area ratio and side yard variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan 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: October 2, 2019

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-Dom M.

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

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

DECISION

§3.11, COLUMN 6, OFF-STREET PARKING; §5.153 ACCESSORY STRUCTURE DISTANCE TO PRIMARY STRUCTURE; § 5.22 SIDE YARDS SHALL BE UNOBSTRUCTED; § 3.12, COLUMN 11 REAR YARD VARIANCES APPROVED

To: Maria Santini (Roost)
56 North Greenbush Road
West Nyack, New York 10994

ZBA #19-91
Date: October 2, 2019
Permit #49143

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-91: Application of Roost Restaurant at 2 Union Street for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, CS District, Section 3.11, Column 6 (Off-street parking spaces: existing approved use is cultural arts center- 1 parking space per 200 sq. ft. of gross floor area; proposed use is a restaurant: 1 parking space per 100 sq. ft. of gross floor area: 54 parking spaces required; 0 parking spaces exist) and from Section 5.153 (Accessory structure distance to primary structure: 15' required, 0' proposed) and Section 5.22 (All required side yards shall be unobstructed) and Section 3.12 Group FF, Column 11 (Rear Yard: 25' required, 2.3' proposed to walk-in cooler). The premises are located at 2 Union Street, Sparkill, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 16 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 2, 2019 at which time the Board made the determination hereinafter set forth.

Simon Basner, owner of Union Arts Center, Maria Santini, owner of Roost Restaurant, and Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated July 26, 2019 signed and sealed by Kier B. Levesque, Architect (3 pages).
2. A letter dated September 25, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated September 9 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
4. A letter dated September 11, 2019 from the Rockland County Sewer District No. 1 signed by Joseph La Fiandra, Engineer II.
5. A letter dated September 26, 2019 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
6. An email dated October 2, 2019 from Larry Vail in support of the application.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, based on the testimony heard by this Board, and the facts as presented in the application, submissions and in the record, since this application seeks area or bulk variances for the construction or expansion of a primary or accessory or appurtenant, non-residential structure or

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facility involving less than 4,000 sq. ft. of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls but not radio communications or microwave transmission facilities, Ms. Castelli 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) and/or (16); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Sullivan was absent.

Simon Basner, Owner of Union Arts Center, testified that he has been a resident of Piermont for 23 years; that he was a member of the Zoning Board in Piermont for many years; that he purchased the property and established the Art Center 10 years ago; and he offered some history to the building; stating that 60 years ago it was a firehouse and the community room upstairs was used for community events; that since he purchased the building in such disrepair ten years ago it has been brought back to be used as a cultural arts and community center; that the arts center hosts concert pianists, jazz performances; art shows, school recitals, local artists, Brand Openings, non-profit fundraisers and private receptions; that parking for events have not been an issue; that there has always been adequate parking in the in the hamlet; that this year the building was given awards from the Tappantown Historic Society and the Rockland County Historic Society; that he knows first hand that the arts are not self-sustaining; that he has been funding the center since its' opening; that combining the culinary arts of Roost with the Arts upstairs is a perfect union that will not cause an undesirable change in the character of the neighborhood or have an adverse physical or environmental effects on the neighborhood; that it will enhance both uses and help sustain the arts center.

Maria Santini, Roost, testified that the new space would offer ADA compliance, which they do not have in the existing space; that it would allow them a larger kitchen; that the present space does not afford more than one person in the kitchen at a time; that they decorate the restaurant with local artists works and sell them without taking any commission and will continue to do that in the new space; and the new space allows for about 12 more seats; and the hours of operation are from 5 P.M. to 9 or 10 P.M.

Kier Levesque, Architect, testified that he will correct the bulk table; that the walk-in cooler is not on a foundation and questioned if it should be viewed as an accessory structure or as an appliance; that the publication is correct, that the parking existing presently is 0 and will be 0 when the applicant uses the first floor for the restaurant.

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.

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

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FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested off-street parking, accessory structure distance to primary structure, side yard unobstructed, and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Although there is no parking on the site, there is ample parking in the evenings at the commuter lot in the center of Sparkill and the public entering the establishment would not be using the area of the property where the accessory structures would be located.
2. The requested off-street parking, accessory structure distance to primary structure, side yard unobstructed, and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Although there is no parking on the site, there is ample parking in the evenings at the commuter lot in the center of Sparkill and the public entering the establishment would not be using the area of the property where the accessory structures would be located.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested off-street parking, accessory structure distance to primary structure, side yard unobstructed, and rear yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Although there is no parking on the site, there is ample parking in the evenings at the commuter lot in the center of Sparkill and the public entering the establishment would not be using the area of the property where the accessory structures would be located.
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.

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6. The Board made a finding of fact that the New York State Department of Transportation had ample time to comment of the application because the referral packages were mailed out on August 28, 2019 and no comments were received by October 2, 2019.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested off-street parking, accessory structure distance to primary structure, side yard unobstructed, and rear yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part

General Conditions:

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

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

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

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

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(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 off-street parking, accessory structure distance to primary structure, side yard unobstructed, and rear yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Sullivan 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: October 2, 2019

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

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