

MINUTES
ZONING BOARD OF APPEALS
February 5, 2020

MEMBERS PRESENT: DAN SULLIVAN
THOMAS QUINN
PATRICIA CASTELLI
MICHAEL BOSCO
ROBERT BONOMOLO

ABSENT: NONE

ALSO PRESENT: Ann Marie Ambrose, Official Stenographer
Christian Catania, Senior Clerk Typist
Denise Sullivan, Deputy Town Attorney

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

POSTPONED ITEM:

SOFT CLOTH CAR WASH 558 North Middletown Road Pearl River, NY 64.17 / 1 / 77; CO zone	SIGNAGE VARIANCES APPROVED	ZBA#20-03
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NEW ITEMS:

ORANGETOWN COMMERCE CENTER EXTENSION OF TIME TO IMPELEMENT ZBA#18-06 5 Greenbush Road Orangetown, New York 74.15 / 1 / 2; LI zone	GRANTED	ZBA#20-10
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ORANGETOWN COMMERCE CENTER EXTENSION OF TIME TO IMPELEMENT ZBA#18-07 5 Greenbush Road Orangetown, New York 74.15 / 1 / 2; LI zone	GRANTED	ZBA#20-11
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TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

MOONE
280 Western Highway
Tappan, NY
74.18 / 2 / 39; R-15 zone

ACCESSORY STRUCTURE
DISTANCE VARIANCE
APPROVED

ZBA#20-12

PETERSON
338 Laurel Road
Pearl River, NY
68.11 / 2 / 25; R-15 zone

FRONT YARD AND
TOTAL SIDE YARD
VARIANCES APPROVED

ZBA#20-13

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 8:35 P.M.

Dated: February 5, 2020

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

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DECISION

§ 3.11, COLUMN 5 PARAGRAPH 6: SIGN SIZE VARIANCE APPROVED

To: Bob Behles (Soft Cloth Carwash)
60 N. Harrison Avenue
Congers, New York 10920

ZBA #20-03
Date: February 5, 2020
Permit #48828

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-03: Application of Soft Cloth Car Wash for a variance from Zoning Code (Chapter 45) of the Town of Orangetown Code, CO District, Section 3.11, Column 5 Paragraph 6 (12 sq. ft. of signage permitted 428.18 sq. ft. existing, 605. 20 sq. ft. proposed) for the replacement of canopies and signs at an existing carwash. The carwash is located at 558 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 64.17, Block 1, Lot 77 in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 5, 2020 at which time the Board made the determination hereinafter set forth.

Maureen Flynn, Designer, Sign Creations, appeared and testified.

The following documents were presented:

1. Six pages of pictures of existing signage.
2. Four pages of proposed signage.
3. Site plan prepared by (no name) dated October 16, 2019.
4. ZBA Decision #70-167 dated 12/16/1970.
5. A letter dated December 11, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated November 18, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
7. A letter dated January 2, 2020 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
8. No comment form from Rockland County Department of Health signed by Elizabeth Mello dated 12/30/ 2019.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that based upon the testimony heard by this Board, and the facts 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 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

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with local land use controls, this application is a Type II action 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 Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

Maureen Flynn, sign designer, testified that they are proposing a standing seem awning that would clean up the façade and come out four feet from the building; that it would be 108" high and it will replace the 492 sq. ft. that exists; that she does not know how they determined the new measurement that the copy are for the Quick Lube Awning is 1' x 6'; that they may have measured everything including the color background; and that the proposal will look cleaner.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested §3.11, Column 5 #6 sign size variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board agreed with the applicant that the proposed new signs and awning will be cleaner and more appealing to the eye. The applicant has agreed to the comply with the conditions imposed by the Rockland County Highway Department: (1) the proposed awnings shall be located on private property; (2) the proposed awnings shall no conflict with the traffic control signs or traffic signal lights on the County Road; and (3) a road work permit shall be obtained from the Rockland County Highway Department prior to starting any construction activities on the site.
2. The Board overrode the disapproval from Rockland County Planning in their letter dated December 11, 2019 because the proposal before the Board will not have an adverse effect on the neighborhood and will actually clean up the site.

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3. The requested §3.11, Column 5 #6 sign size variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board agreed with the applicant that the proposed new signs and awning will be cleaner and more appealing to the eye. The applicant has agreed to the comply with the conditions imposed by the Rockland County Highway Department: (1) the proposed awnings shall be located on private property; (2) the proposed awnings shall no conflict with the traffic control signs or traffic signal lights on the County Road; and (3) a road work permit shall be obtained from the Rockland County Highway Department prior to starting any construction activities on the site.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested §3.11, Column 5 #6 sign size 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 Board agreed with the applicant that the proposed new signs and awning will be cleaner and more appealing to the eye. The applicant has agreed to the comply with the conditions imposed by the Rockland County Highway Department: (1) the proposed awnings shall be located on private property; (2) the proposed awnings shall no conflict with the traffic control signs or traffic signal lights on the County Road; and (3) a road work permit shall be obtained from the Rockland County Highway Department prior to starting any construction activities on the site.
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 §3.11, Column 5 #6 sign size 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.

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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.

The foregoing resolution to approve the application for the requested §3.11, Column 5 #6 sign size variance is APPROVED; was presented and moved by Ms. Castelli seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

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

DATED: February 5, 2020

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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DECISION

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

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

ZBA #20-10
Date: February 5, 2020
Permit # 45232

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-10: Application of Orangetown Commerce Center for an extension of time to implement variances that were granted in ZBA #16-62 and extended once in ZBA # 18-06: variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.11, Column 5 #7 (Total Sign Area shall not exceed 60 sq. ft.: illuminated area of sign : 30 sq. ft. permitted: 240 sq. ft. proposed) and #8 c (sign setback: 30' required, 6'10" and 3' proposed) for two (2) internally lit freestanding signs. The premises are located at 5 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 2; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 5, 2020 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Esq., Vani Nuyyar, Intern, Justin Lim, P.E., Leonard Jackson Associates; appeared and testified.

The following documents were presented:

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

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application seeks area or bulk variances for construction or expansion of a primary, or accessory or appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9); which does not require SEQRA environmental review; and that the ZBA consented to Planning Board acting as Lead Agency for SEQR purposes which was conducted as set forth in PB#16-62 (Preliminary Site plan approval) and with SEQR reaffirmed in PB# 18-29 (Final Site Plan approval subject to conditions). The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Bonomolo, aye; and Mr. Bosco, aye.

Geraldine Tortorella, Esq., testified that they appeared for final approval on the project on December 16, 2016; that the site is contaminated and is under the Brownfields remedial action work plan; that they went back to ACABOR to change the façade on the rear of the building

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as a cost saving measurement and once they start the work they must finish it because of the cleanup; and that they are hoping to start it soon.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. No significant change in circumstances has occurred since the prior approved variances were granted in ZBA #16-62 and reaffirmed (with an extension granted) in ZBA# 18-06 that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect construction to begin construction soon.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested extension of time to implement the variances granted in ZBA #18-08, ZBA#16-62 for sign size, Illumination, and location variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested extension of time to implement variances granted in ZBA # 16-62, and as reaffirmed (with an extension granted) in #18-06 for sign size, illumination and location variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Bosco, aye.

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

DATED: February 5, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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DECISION

EXTENSION OF TIME TO IMPLEMENT HEIGHT VARIANCES GRANTED

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

ZBA #20-11
Date: February 5, 2020
Permit # 45127

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-11: Application of Orangetown Commerce Center for an extension of time to implement variances that were granted in ZBA#16-63 and extended once in ZBA#18-07: variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.12, Column 12 (Building Height : 25' permitted, 30' proposed to roof, 32 ½ ' proposed to parapet) for a new commerce center. The premises are located at 5 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 2; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 5, 2020 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Esq., Vani Nuyyar, Intern and Justin Lim, P.E., Leonard Jackson Associates, appeared and testified.

The following documents were presented:

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

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

Geraldine Tortorella, Esq., testified that they appeared for final approval on the project on December 16, 2016; that the site is contaminated and is under the Brownfields remedial action work plan; a site specific health and safety plan will be implemented during cleanup and they need to run a tight schedule and that is why they need the extension; that they have made modifications to the buildings which has rendered the building height variance along Greenbush Road unnecessary; that they moved the building back further away from the Greenbush road side and therefore do not need the previously granted height variance on that side of the building; and would really appreciate an extension of time.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.5 (c)(9); and since the ZBA consented to Planning Board acting

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as Lead Agency in SEQR purposes which was conducted as set forth in PB#16-62 (Preliminary Site Plan Approval) and with SEQR reaffirmed in PB# 18-29 (Final Site Plan Approval Subject to Conditions). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Bosco, aye.

Public Comment:
No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. No significant change in circumstances has occurred since the prior approved variances were granted in ZBA# 16-63 and as reaffirmed (with an extension granted) in ZBA# 18-07 that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect construction soon.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested extension of time to implement the variances granted in ZBA#16-63 and as reaffirmed (with an extension granted) in ZBA# 18-07 for Building Height: 25' permitted, 30' proposed to roof, 32 ½ ' proposed to parapet are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


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The foregoing resolution to approve the application for the requested extension of time to implement the height variance granted in ZBA#16-63 and as reaffirmed (with an extension granted) in ZBA # 18-07 is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Bosco, aye.

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

DATED: February 5, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

DECISION

SECTION 5.227 DISTANCE BETWEEN ACCESSORY STRUCTURES VARIANCE APPROVED

To: Christopher and Allyson Moone
280 Western Highway
Tappan, New York 10983

ZBA #20-12
Date: February 5, 2020
Permit # 49418

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-12: Application of Christopher and Allyson Moone for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.227 (Distance between Primary and Accessory Structures: 15' required, 9'1" proposed/existing) for a greenhouse structure at an existing single-family residence. The premises are located at 280 Western Highway, Tappan, New York and is identified on the Orangetown Tax Map as Section 74.18, Block 2, Lot 39 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 5, 2020 at which time the Board made the determination hereinafter set forth.

Allyson Moone appeared and testified.

The following documents were presented:

1. Survey dated 9/19/ 2019 with the latest revision date of 11/21/2019 signed and sealed by John R. Atzl, N.Y.S.P.L.S.
2. Architectural plans for garden Shed dated May 3, 2019 signed and sealed by John C. Taceta, P.E.. (2 pages)
3. ZBA Decision # 74-86 dated 07/17/1974.
4. A violation search report dated 10/24/2019 from the Office of Building Zoning, Planning Administration and Enforcement, Town of Orangetown not signed.

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

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

Allyson Moone testified that they just moved in last month; that the structure existed when they purchased the house and it is beautiful and they would like to keep it; that they did not know that it was non-conforming; that the old owner said that they paid someone to get a permit and they didn't do it; that they purchased the house with money set aside to see if they could legalize the structure; that the previous owner is in her 80's and that is why they took it over

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Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested accessory structure distance variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The greenhouse structure has existed for years without incident.
2. The property was granted a use variance in ZBA# 74-86 dated 7/17/ 1974 which restricts the use of the second story of the detached two-story, two-car garage for living quarters to be used and occupied by members of the immediate family of the owner(s) only; and a Restrictive Covenant which runs with land was filed in the Rockland County Clerk's office.
3. The requested accessory structure distance variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The greenhouse structure has existed for years without incident.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. . The greenhouse structure has existed for years without incident.
5. The requested accessory structure distance variance is not substantial, and 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.
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.

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

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested accessory structure distance 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. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye.

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

DATED: February 5, 2020

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

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

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DECISION

**FRONT YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES
APPROVED**

To: Douglas Peterson
338 Laurel Road
Pearl River, New York 10965

ZBA #20-13
Date: January 22, 2020
Permit # 49850

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-13: Application of Douglas Peterson for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 8 (Front Yard: 30' required, 12.5' existing, 19.2' proposed), 10 (Total Side Yard: 50' required, 41.7' proposed) and 12 (Building Height: 12.5' permitted, 14' 5" proposed) for an addition to an existing single-family residence. The premises are located at 338 Laurel Road, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.11, Block 2, Lot 25 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 5, 2020 at which time the Board made the determination hereinafter set forth.

Douglas and Theresa Peterson appeared and testified.

The following documents were presented:

1. Survey dated August 23, 2019 with the latest revision date of 12/19/2019 signed and sealed by Robert E. Sorace, PLS.
2. Architectural elevations dated July 26, 2018 signed and sealed by Harry J. Goldstein, Architect.
3. Three letters in support of the application.

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

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

Douglas Peterson testified that in 1994 they built an addition that went up and back because the family was growing; that they have been in the house for 31 years and plan on staying in the

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house after they retire; that their children and grandchildren all live in the area and they want to stay here and be close to all of them; that they have no plans to re-locate; that the garage in the rear of the house is used for mostly storage; that they will use the new garage for their cars and be able to have a bedroom on the first floor as they age; and the new garage will have two doors.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area and the applicant had three letters from surrounding neighbors in support of the application.
2. The requested front yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . Similar additions have been constructed in the area and the applicant had three letters from surrounding neighbors in support of 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.

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4. The requested front yard and total side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area and the applicant had three letters from surrounding neighbors in support of the application.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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

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

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

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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 front yard and total side yard variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

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

DATED: January 22, 2020

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- Dave

TOWN CLERK
HIGHWAY DEPARTMENT
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FILE.ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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