

MINUTES  
ZONING BOARD OF APPEALS  
June 15, 2016

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

ABSENT: JOAN SALOMON  
MICHAEL BOSCO

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

REYNOLDS  
75 Douglas Court  
Pearl River, NY  
69.09 / 5 / 38; R-15 zone

SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT  
VARIANCES APPROVED AS MODIFIED ZBA#16-46

NEW ITEMS:

K & P PAVING  
568 Route 303  
Blauvelt, NY  
70.14/ 4 / 19; LO zone

POSTPONED ZBA#16-49

ONE RAMLAND ROAD  
1 Ramland Road  
Orangeburg, N.Y.  
73.20 / 1 / 24; LIO zone

FRONT YARD VARIANCE APPROVED ZBA#16-50

ONE RAMLAND ROAD  
PERFORMANCE STANDARDS  
1 Ramland Road  
Orangeburg, N.Y.  
73.20 / 1 / 24; LIO zone

PERFORMANCE STANDARDS REVIEW APPROVED ZBA#16-51

BARONE  
197 West Washington Avenue  
Pearl River, NY  
68.15 / 3 / 64; RG zone

FLOOR AREA RATIO VARIANCE APPROVED ZBA#16-52

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DOMINICAN COLLEGE  
HENNESSY CENTER  
495 Western Highway  
Orangeburg, NY  
70.18 / 1 / 73; R-40 zone

FLOOR AREA RATIO,  
SIDE YARD AND BUILDING  
HEIGHT VARIANCES APPROVED

ZBA#16-53

LAPINS  
659 Western Highway  
Blauvelt, NY  
70.10 / 1 / 73; R-40 zone

MOBIL CHICKEN COOP  
APPROVED WITH SPECIFIC  
CONDITIONS

ZBA#16-54

HURLEY/FARRELL  
38 Moehring Drive  
Blauvelt, NY  
68.15 / 3 / 64; R-15 zone

WITHDRAWN

ZBA#16-55

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Manhattan Woods Golf Course Site Plan & Supplement Storage Building Plan, 1 Ahlmeyer Drive, West Nyack, NY 69.11/1/1; R-80 zoning district; 5 Kopac Lane Subdivision (4 lots) 42 and 62 Schuler Road, Blauvelt, NY 65.15 / 1 / 10 and 12.1; R-80 zone;; Lee Home Office Plan, Conditional Use Permit for Acupuncture Clinic, 1 Hook Street, Orangeburg, New York 74.13 / 3 / 13; RG zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

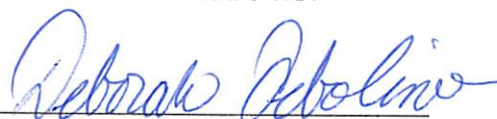
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

Dated: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN CLERKS OFFICE  
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DECISION

**SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES  
APPROVED AS MODIFIED**

To: Peter Reynolds  
75 Douglas Court  
Pearl River, New York 10965

ZBA #16-46  
Date: June 15, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-46: Application of Peter Reynolds for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12 Column 9 (Side Yard: 20' required, 9.71' proposed), 10 (Total Side Yard: 50' required 30.51' proposed) and 12 (Building Height: 9.71' permitted, 13' 5" proposed) for an addition to an existing single-family residence. The premises are located at 75 Douglas Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 38; 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, June 1, 2016 and June 15, 2016 at which time the Board made the determination hereinafter set forth.

Peter Reynolds appeared and testified.

The following documents were presented:

1. Architectural plans dated 10/05/2015 with the latest revision date of 04/21/2016 signed and sealed by Anthony Olieveri, P.E. (2 pages)

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

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

At the June 1, 2016 hearing, Peter Reynolds testified that he is proposing to add an addition to the side of the house that be used as half for a mud room and half for an office; that he would like the kids to enter through the mudroom ; that this is the logical place for the addition because of the shape of the property; that the other side of the property is sloping; that he has a deck in the rear of the house and he does have a 10' x 8' shed in the rear of the house; and that he originally wanted to make the structure two stories but didn't do that out of consideration for the neighbor but he went to the expense for these plans and would like a continuance.

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Public Comment:

Vincent Massaro, 67 Douglas Court, testified that he is the neighbor closest to the proposed addition; that it is too close to his property; that it will impact his privacy; that originally his neighbor told him that he wanted to add a 12' addition; that he might be ok with that but 9.7' is too close to the property line and there should be spaces between the houses to protect the residences.

June 15, 2016

Joan Salomon and Michael Bosco were absent. No new items were submitted.

At the June 15, 2016 meeting, Peter Reynolds testified that after hearing the objections of his neighbor, he would reduce the addition by 2 feet from a 14' wide room to a 12' wide room; that he would like to keep the stairs and side entrance and that the office is a personal home office and the only traffic will be his kids, wife and himself.

Public Comment

Vincent Massaro, 67 Douglas Court, testified that he appreciates his neighbor going back to the 12' room but he would prefer that the stairs on the side of the house be removed and allow the entrance in the rear to remain, that he is concerned that the office will add traffic close to his home because it may be used for business and he is trying to be neighborly but he is entitled to twenty feet between properties.

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 side yard as modified to 11.71', total side yard as modified to 32.51' and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood. The proposed addition has been reduced in width by two feet as requested by the abutting property owner.
2. The side stairs to the proposed addition are uncovered and not large enough to be included in the calculations for measuring the side yard setback.

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3. The requested side yard as modified to 11.71', total side yard as modified to 32.51' and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood. The proposed addition has been reduced in width by two feet as requested by the abutting property owner.
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 side yard as modified to 11.71', total side yard as modified to 32.51' and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed addition has been reduced in width by two feet as requested by the abutting property owner.
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 side yard as modified to 11.71', total side yard as modified to 32.51' and building height 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 side yard as modified to 11.71', total side yard as modified to 32.51' and building height variances was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were 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: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

DECISION

**FRONT YARD VARIANCE APPROVED**

To: Donald Brenner (One Ramland Road)  
4 Independence Avenue  
Tappan, New York 10983

ZBA #16-50  
Date: June 15, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-50: Application of One Ramland Road for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Group CC, Section 3.12, Column 9 (Front Yard: 100' required, 92.7' existing, 74' proposed) for an amendment to the location of generators. The premises are located at 1 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 24; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 15, 2016 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plan dated April 14, 2016 signed and sealed by Jay A. Greenwell, PLS,LLC.
2. A letter dated June 7, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
3. A letter dated June 15, 2016 from the County of Rockland Highway Department signed by Sonny Lin,P.E..
4. A letter dated May 17, 2016 from the County of Rockland Division of Environmental Health signed by Scott McKane, P.E..
5. Planning Board decision (PB#15-42) dated July 22, 2016.
6. Zoning Board of Appeals decision (ZBA#13-32) dated May 15, 2013.

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

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

Donald Brenner, Attorney, testified that the new tenants in the building are requesting that their emergency generators be located closer to their leased space and that is the reason for the requested front yard variance request.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The generators will be walled in and no neighbors are objecting.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The generators will be walled in and no neighbors are objecting.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard 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 generators will be walled in and no neighbors are objecting.
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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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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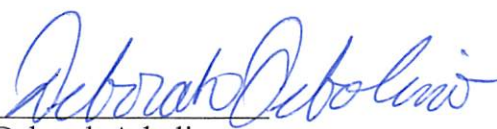
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard variance was presented and moved by Mr. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were 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: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE  
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DECISION  
**PERFORMANCE STANDARDS APPROVED WITH CONDTIONS**

To: Donald Brenner (One Ramland Perf. Stds.)  
4 Independence Avenue  
Tappan, New York 10983

ZBA #16-51  
Date: June 15, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-51: Application of One Ramland Road requesting the ZBA's review, and determination, Zoning Code (Chapter 43) of the Town of Orangetown Code § 4.1 Performance Standards, LIO District, Group CC, Section 4.1 Performance Standards review for additional generators. The premises are located at 1 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 24; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 15, 2016 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plan and Elevation The Martin Group Emergency Generators Enclosures dated 12/01/2015 (1 page).
2. Site Development plan proposed generator enclosure dated April 14, 2016 signed and sealed by Jay A. Greenwell, PLS..
3. Performance standards resume of operations and equipment dated June 15, 2016 Fire Prevention Supplement.
4. A letter dated June 7, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
5. A letter dated June 15, 2016 from the County of Rockland Highway Department signed by Sonny Lin, P.E..
6. A letter dated May 17, 2016 from the County of Rockland Division of Environmental Health signed by Scott McKane, P.E..
7. Planning Board decision (PB#15-42) dated July 22, 2016.
8. Zoning Board of Appeals decision (ZBA#13-32) dated May 15, 2013.
9. A letter dated June 14, 2016 from the Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Town of Orangetown.
10. A memorandum dated June 15, 2016 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were absent.

Donald Brenner, Attorney, testified that the applicant has been before the board many times before; that they have rented out more space to new tenants that would like their emergency generators closer to their rented space; that they are requesting three 2.5 MW emergency generators that will be installed outdoors within weatherproof, sound attenuating enclosures with a 22' screen wall; that they will register with the DEC and adhere to all of the conditions of the involved agencies.

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The Performance Standards Resume of Operations and Equipment, and the Fire Prevention Supplement completed by the applicant were thereupon reviewed in detail.

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 of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated June 14, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 15, 2016 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the report dated May 17, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E.; Rockland County Highway work permit will be required as per Sonny Lin, P.E. letter dated June 15, 2016; the report dated June 7, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner; the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents submitted, the Board: RESOLVED, that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, Town of Orangetown B.F.P., dated February 5, 2015; and (2) that the Applicant adhere to all of the requirements set forth by the report dated January 22, 2015 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown; (3) the report dated May 17, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E.; (4) Rockland County Highway work permit will be required as per Sonny Lin, P.E. letter dated June 15, 2016; (5) the report dated June 7, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

TOWN OF ORANGETOWN  
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OFFICE OF BUILDING, ZONING & PLANNING ADMINISTRATION & ENFORCEMENT, D.E.M.E.

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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TOWN CLERKS OFFICE

The foregoing Resolution to approve, with the foregoing conditions, the application for the requested Performance Standards Review was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Sullivan, aye. Ms. Salomon and Mr. Bosco were 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: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED**

To: Michael Dempsey (Dominican College)  
470 Western Highway  
Blauvelt, New York 10913

ZBA #16-53  
Date: June 15, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-53: Application of Dominican College Hennessy Center for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group H, Section 3.12, Columns 4 (Floor Area Ratio: .15 permitted, .172 previously approved, .199 proposed), 9 (Side Yard: 100' required, 25.5' was previously approved, 21' proposed) and 12 (Building Height: 25' permitted, 41' proposed) for an addition to an existing Student Health Center which was slightly amended at final site plan. The building is located on the east side of Western Highway, 600 feet north of the intersection of Mountainview Avenue, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.18, Block 2, Lot 14; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 15, 2016 at which time the Board made the determination hereinafter set forth.

Michael Dempsey, Facilities Director, Sister Kathryn Sullivan, Chancellor and Brian Quinn, Attorney, appeared and testified.

The following documents were presented:

1. Site plan dated January 13, 2013 with the latest revision date of May 5, 2016 signed and sealed by Joseph Corless, P.E.
2. ZBA Decision #11-96 dated November 16, 2011.
3. A letter dated June 6, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
4. A letter dated June 13, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..
5. A letter dated May 16, 2016 from the Rockland County Sewer District No. 1 signed by Joseph La Fiandra, Engineer II.
6. A letter dated May 16, 2016 from the Rockland County Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on September 14, 2011 rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were absent.

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Brian Quinn, Attorney, testified that the project has been before the Board before; that they previously were granted variances and final site plan approval' that the proposed 18,040 sq. ft., addition was increased to 19,030 sq. ft. because of the addition of bathrooms and an elevator for handicap access to the second story; that the increase in floor area is minimal as is the change to the side yard; the increase in floor area ratio is .003; that the side yard variance is to the adjoining property that is owned by the college and was subdivided for financial purposes.

Joe Corless, Engineer, testified that John Giardiello thought they needed the extra bathrooms and the elevation to meet the building codes and that the height of the building is meeting the height of the existing building.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The changes to the floor area are minimal, the change to the side yard is on the side of the property that abuts more college owned property and the building height is existing.
2. The requested floor area ratio, side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The changes to the floor area are minimal, the change to the side yard is on the side of the property that abuts more college owned property and the building height is existing.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. . The changes to the floor area are minimal, the change to the side yard is on the side of the property that abuts more college owned property and the building height is existing.
4. The requested amendments to the floor area ratio, side yard and building height variances are not substantial.

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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 floor area ratio, side yard and building height 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 floor area ratio, side yard and building height variances was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were 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: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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ZBA MEMBERS  
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FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
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TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Jane Slavin (Barone)  
200 East Erie Street  
Blauvelt, New York 10913

ZBA #16-52  
Date: June 15, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-52: Application of Gerald and Sylvia Barone for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 4 (Floor Area Ratio: .30 permitted, .26 existing, .32 proposed) for an addition to an existing two-family residence. The premises are located at 197 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 3, Lot 64; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 15, 2016 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, Gerald Barone appeared and testified.

The following documents were presented:

1. Architectural plans dated 08/06/2015 with the latest revision date of 04/18/2016 signed and sealed by Jane Slavin, Architect (3pages).
2. A letter dated June 1, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
3. A letter dated June 15, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..
4. A letter dated April 28, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E..
5. A letter dated May 12, 2016 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II
6. Tax map showing other two and three family houses in the neighborhood.
7. A plan showing the additional overhand on the first floor that is being counted.
8. Four letters in support of the application from neighbors.

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

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

Jane Slavin, Architect, testified that they are proposing to add a second floor over the first floor expansion for a total of 619 sq. ft.; that they are over the compliance by 247 sq. ft.; that the house is pre-existing zoning and is surrounded by similar 2 story houses; that there is a three family house to the east and two additional two-family houses to the east, as demonstrated by the tax map submitted.

Gerald Barone testified that he has lived in the house since 1973; that his wife has been a resident of Orangetown for 25 years; that they would like to start a family soon and also be able to care for their parents; and that is why they need the addition.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

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

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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 floor area ratio 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.

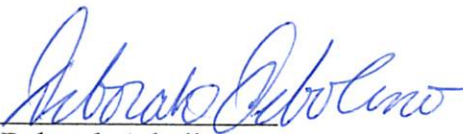
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The foregoing resolution to approve the application for the requested floor area ratio variance was presented and moved by Mr. Feroldi, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were 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: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

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OBZPAE  
BUILDING INSPECTOR-M.M.

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

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TOWN OF ORANGETOWN

DECISION

**§ 3.11, R-80, COLUMN 5 # 8 VARIANCE APPROVED WITH SPECIFIC CONDITIONS**

To: Vanessa Lapins  
659 Western Highway  
Blauvelt, New York 10913

ZBA #16-54  
Date: June 15, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-54: Application of Vanessa Lapins for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.11, refers to R-80 Column 5 #8 (chicken coop with 3 chickens must be 200 feet from any lot line) for a portable chicken coop at an existing single-family residence. The premises are located at 659 Western Highway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.10, Block 1, Lot 73; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 15, 2016 at which time the Board made the determination hereinafter set forth.

Vanessa Lapins and Joe Printz appeared and testified.

The following documents were presented:

1. Survey dated April 22, 2010 signed and sealed by Robert E. Sorace, PLS, with proposed chicken coop drawn on it.
2. A letter dated June 3, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
3. A memorandum dated June 15, 2016 from Paul J. Witte, Code Enforcement Officer, Town of Orangetown.
4. A letter dated May 16, 2016 from the Rockland County Division of Environmental Health, signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated June 13, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..
6. A letter dated June 15, 2016 from James Riley, Esq., representing James and Diane Wenke. (2 pages)
7. A letter dated June 15, 2016 from James and Diane Wenke, 33 Shorn Drive, Blauvelt, NY.(2 pages)
8. A letter dated June 15, 2016 from James and Diane Wenke ( 3pages).
9. 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 Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon and Mr. Bosco were absent.

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Vanessa Lapins testified that while the family was volunteering for Keep Rockland Beautiful, they found an abandoned baby chicken they wanted to keep as a pet; that her two sons have been caring for it and recently they found out that the chick is actually a rooster; that they are hoping that the rooster would quiet down in the morning if it were in the coop; that the coop is not present on the property yet and the rooster has been kept in the rear of the house by the back door while the siding is being done; that it would be moved to the front when the coop arrives and be more isolated by trees; that she is willing to sound proof the coop as much as possible; that it would not be completely soundproof because it would have to have windows for air circulation and she even looked into a collar for the rooster so that the crowing isn't as loud; that she has ordered four more chicks and the rooster would be their protection; that she understands that it is loud and she wants to be a good neighbor; that if she is given time perhaps the rooster would settle down and she could keep it in the coop until 7:00 or 7:30 A.M.; that the rooster would still crow during the day but there many dogs in the neighborhood barking also; and if the rooster is the problem she will re-home it.

Public Comment:

Cheryl McNeil, 56 Old Western Highway, testified that she is in favor of the chicken coop and against the regulations that if you have two acres of property you can 100 chicks and can't have them on one acre of property; that she works at the Library and many books are being taken out on building chicken coops and grazing areas; that chickens make great pets; that they eat ticks, they are beautiful and sweet; that encourage clean food and gardening and teach about food production.

Diane Wenke, 33 Shorne Drive, testified that when she first got the letter she thought how wonderful that both her and her sons spend time volunteering to the betterment of Rockland County ; that unfortunately , they are opposed to this variance for the following reasons: the distance to the property lines of the coop, the coop is moveable, the noise, the additional chickens, the Forbes article" Five reasons why owning backyard chickens is for the birds" and she continued about how loud the rooster is and that Vanessa should have done her due diligence before purchasing more chicks; and she submitted another letter.

Lori McLaughlin, 3 Hobbs Drive, testified that she is very uncomfortable doing this; that she does not know Vanessa but she has been woken up every morning by the Rooster; that her Cavalier is old and every day he is barking like crazy because of the rooster; that it is very disruptive and she is opposed to the rooster and finds this very upsetting; that the crowing goes on all day long.

Robin Connell, 5 Hobbs Drive, testified that she lives right behind Vanessa and she has no problem with the chickens but she definitely has a problem with the crowing; that she is worried about the portable coop because it could end up in her backyard.

James Riley, Attorney, 144 East Central Ave., Pearl River, N.Y., representing the Wenke's at 33 Shorn Drive, Blauvelt, located immediately to the east of the applicant's premises; that they are opposed to the proposed moveable chicken coop and the keeping of chickens or fowl on her residential premises in an R-40 zone; that the Zoning Code provision is stated in the Town of Orangetown Table of General Use Regulations Section 3.11, R-80 District (Part I), general accessory uses column 5, section 8 which is controlling in the R-40 zoning district in which applicant's premises are located and which applies to applicant's R-40 zone which provides: no animals (except cats or dogs) or fowl shall be penned or house... [or] shall be maintained within 200 feet or any lot line, nor shall any such animal or fowl be permitted to graze upon, pasture in or use that portion of any lot within 100 feet of any lot line; the provision of section 3.11, Part I column 5 section 8 also apply to parcels located in an R-40 zone which is the zone the Wenke's and the applicant are in; that it must be noted that it is impossible to comply to

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any extent whatsoever with either requirements for the location of the proposed pen or housing for the chickens or fowl which must be at least 200 feet from any lot line or the grazing or pasturing of the chickens or fowl no less than 100 feet from any lot line; that a denial should be issued as to the location of the coop and since the application seeks a variance with regard to a specific use under general accessory use table and since the use in issue – the keeping of chickens or fowl – is concerning and troublesome as to possible adverse effects on neighbors, the case law and standards which should apply are those applicable to the grant or denial of a use variance; which carries a much higher burden as to proof, justification and support than that applicable to an area variance.

Jesse Lebin, 3 Shorn Drive, testified that he would like to thank the board for the letter of notice about the meeting; that he and his wife have no issue with chickens by Sunday they started hearing the rooster and they are not in favor of a rooster; that they have two very young children and they can clearly hear the rooster inside their bedroom when the window is open and it is loud; that they also attract rodents and coyotes and he suggests donating it to Bell-Ans Farms; that he lives much closer than the Sokols and is opposed to keeping the Rooster.

Michael Siego, 1 Hobbs Dive, testified that he started hearing the rooster a week ago and is opposed to permitting the rooster; that it is loud now with leaves on the trees and will be worse in the winter with no leaves.

James Wenke, 33 Shorn Drive, testified that he heard Vanessa got chickens but the rooster is making him crazy and she might be a great person but he did not sign up to live next to a chicken farm and urged the Board not to approve.

Brian Wenke, 33 Shorn Drive, testified that he is home from school and the noise is non-stop , loud and annoying.

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, R-80 District, Column 5 #8 variance as conditioned will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant shall find a new home for the rooster and any chicks that become roosters. The hens shall not graze, pasture or use any portion of the lot within, nor be penned or house within, 100' of the rear and side lot lines or 50' from the front lot line. No more than five hens total may be kept (no roosters permitted).

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2. The requested § 3.11, R-80 District, Column 5 #8 variance as conditioned will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant shall find a new home for the rooster and any chicks that become roosters. The hens shall not graze, pasture or use any portion of the lot within, nor be penned or house within, 100' of the rear and side lot lines or 50' from the front lot line. No more than five hens total may be kept (no roosters permitted).
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested § 3.11, R-80 District, Column 5 #8 variance as conditioned, 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 shall find a new home for the rooster and any chicks that become roosters. The hens shall not graze, pasture or use any portion of the lot within, nor be penned or house within, 100' of the rear and side lot lines or 50' from the front lot line. No more than five hens total may be kept (no roosters permitted).
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.
6. DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested § 3.11, R-80 District, Column 5 #8 variance is APPROVED with the following conditions: (1) The applicant shall find a new home for the rooster and any chicks that become roosters; (2) The hens shall not graze, pasture or use any portion of the lot within, nor be penned or house within, 100' of the rear and side lot lines or 50' from the front lot line. No more than five hens total may be kept (no roosters permitted); 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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TOWN OF ORANGETOWN

(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, R-80 District, Column 5 #8 variance as conditioned: (1) The applicant shall find a new home for the rooster and any chicks that become roosters; (2) The hens shall not graze, pasture or use any portion of the lot within, nor be penned or house within, 100' of the rear and side lot lines or 50' from the front lot line. No more than five hens total may be kept (no roosters permitted); was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were 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: June 15, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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TOWN OF ORANGETOWN