

MINUTES  
ZONING BOARD OF APPEALS  
JANUARY 2, 2013

MEMBERS PRESENT:

DANIEL SULLIVAN  
JOAN SALOMON  
PATRICIA CASTELLI  
MICHAEL BOSCO, ALTERNATE  
NANETTE ALBANESE

ABSENT:

NONE

ALSO PRESENT:

Dennis Michaels, Esq. Deputy Town Attorney  
Ann Marie Ambrose, Official Stenographer  
Deborah Arbolino, Administrative Aide  
Elizabeth Decort, Clerk-Typist

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

GEHNA 74.10 / 1 / 14; RG zone	REAR YARD AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED	ZBA#13-01
SNAKE HILL HOMES 77.10 / 3 / 54; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#13-02
578 ROUTE 303 70.14 / 4 / 14; LO zone	CONTINUED	ZBA#13-03
ANDEAN BREWING COMPANY PERFORMANCE STANDARDS 65.18 / 1 / 5; LI zone	APPROVED WITH CONDITIONS	ZBA#13-04
LAMONT DOHERTY COLUMBIA UNIVERSITY PERFORMANCE STANDARDS 80.10 / 1 / 2; R-80 zone	APPROVED WITH CONDITIONS	ZBA#13-05

TOWN CLERKS OFFICE

2013 JAN 29 PM 12:29

TOWN OF ORANGETOWN


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 10:45 P.M.

Dated: January 2, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By:   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

- APPLICANT
- TOWN ATTORNEY
- DEPUTY TOWN ATTORNEY
- ASSESSOR
- HIGHWAY DEPARTMENT
- SUPERVISOR
- TOWN BOARD MEMBERS
- BUILDING INSPECTOR (Individual Decisions)
- DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
- Rockland County Planning

TOWN CLERKS OFFICE

2013 JAN 29 PM 12:28

TOWN OF ORANGETOWN

DECISION

**REAR YARD AND ACCESSORY STRUCTURE DISTANCE VARIANCES  
APPROVED**

To: Mukhtar Gehna  
38 Dutch Hill Road  
Orangeburg, New York 10962

ZBA # 13-01  
Date: January 2, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-01: Application of Mukhtar Gehna for a variance from Chapter 43 (Zoning), Section 3.12; RG District; Group Q, Column 11 ( Rear Yard: 25' required, 12.1' proposed) for a deck and from Section 5.153 (Accessory structure distance from principal building: 15' required, 8.5' existing to an existing shed) at an existing single-family residence. The premises are located at 38 Dutch Hill Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 14 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2013 at which time the Board made the determination hereinafter set forth.

Mazir Gehna and Mukatar Gehna appeared and testified.

The following documents were presented:

1. Copy of site plan with proposed deck and existing shed drawn on it.
2. Hand drawn deck plans.

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

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

Mazir Gehna testified that they have an existing deck that is in dis-repair and would like to replace it with a slightly larger deck; that they have grandchildren and the larger deck would be useful for entertaining family and watching the grandchildren; that they installed a shed five years ago; that they were told that the shed needed to be five feet from each property line and it is 6.6' from each property line; that they found out that it is too close to the house when they came in for the permit for the deck; and that they would like to keep it in its present location because it would be costly to move it.

TOWN CLERKS OFFICE

2013 JAN 29 PM 12:28

TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested rear yard and accessory structure distance variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' lot is a corner lot with two front yards. The shed has existed in its present location for five years and the proposed deck is not an unreasonable size.
2. The requested rear yard and accessory structure distance variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' lot is a corner lot with two front yards. The shed has existed in its present location for five years and the proposed deck is not an unreasonable size.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested rear yard and accessory structure distance variances are not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**TOWN CLERKS OFFICE**

**2013 JAN 29 PM 12:30**

**TOWN OF ORANGETOWN**

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

TOWN CLERKS OFFICE

2013 JUN 29 PM 12:30

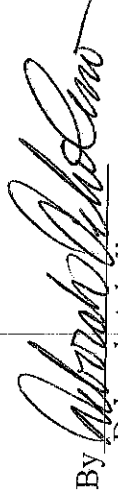
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested accessory structure distance and rear yard variances was presented and moved by Ms. Albanese, seconded by Mr. Sullivan and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, 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 2, 2013

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  
OSZPAE  
BUILDING INSPECTOR -M.M.

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

TOWN OF ORANGETOWN  
2013 JAN 29 PM 12:30  
TOWN CLERKS OFFICE

DECISION

**REAR YARD VARIANCE APPROVED**

To: Kenneth Hiep (Snake Hill Homes Inc.)                      ZBA # 13-02  
22 Snake Hill Road    Date: January 2, 2013  
West Nyack, New York 10994

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-02: Application of Snake Hill Homes Inc. for a variance from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Column 11 (Rear Yard: 35' required, 28.8' proposed) for a deck at an existing single-family residence. The premises are located at 45 Stephens Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 54; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2013 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Copy of site plan with proposed deck drawn on it.

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

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

Donald Brenner, Attorney, testified that the property was acquired by his client in poor shape; that his client has improved the property and would like to install a 12' x 14' deck in the rear yard; that the steps are shown incorrectly and will be on the left side of the deck; that there are other decks in the area; that the lot is a corner lot with two front yards; and that the proposed deck is not large.

TOWN CLERKS OFFICE  
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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.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' lot is a corner lot and the proposed deck is twelve feet wide, which is the suggested width that would accommodate a table and chairs.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' lot is a corner lot and the proposed deck is twelve feet wide, which is the suggested width that would accommodate a table and chairs.
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 rear yard variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE

JUN 29 PM 12:30

TOWN OF ORANGETOWN



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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

TOWN CLERKS OFFICE

JUN 29 PM 12:30

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Ms. Salomon, seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Ms. Albanese, aye; Ms. Salomon, 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 2, 2013

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 -B.vw.

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

TOWN CLERKS OFFICE

2013 JAN 29 PM 12:30

TOWN OF ORANGETOWN

DECISION

**PERFORMANCE STANDARDS REVIEW APPROVED WITH CONDITIONS**

To: Andean Brewing Company Inc.  
300 Corporate Drive Suite 2  
Blauvelt, New York 10913

ZBA # 13-04

Date: January 2, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-04: Application of Andean Brewing Company pursuant to Section 4.12, Chapter 43 (Zoning) Use subject to Performance Standards Conformance Review with respect to review of a micro brewery. The premises are located at 300 Corporate Drive, Suite 2, Blauvelt, New York and identified on the Orangetown Tax Map as Section 65.18, Block 1, Lot 5, in the LI zoning district.

Held by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2013 at which time the Board made the determination hereinafter set forth.

Alireza Saifi, President Andean Brewing, Andria Petito, Accounting Operations Manager and Dan Mellin, representing Pontiac Holdings, appeared and testified.

The following documents were presented:

1. Building layout plan not signed or sealed, 2 pages.
2. Cover sheet explaining the detailed description of standard brewing operations and the equipment used in production.
3. Brochure for KuKn beer.
4. Eighteen pages of Material Safety Data Sheets.
5. Performance Standards Resume of Operations and Equipment form dated December 4, 2012 and signed by Alireza Saifi.
6. Fire Prevention Supplement.
7. Two letters dated December 14, 2012 and January 11, 2013 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
8. A letter dated December 17, 2012 from the County of Rockland Department of Highways signed by Joseph Arena, Senior Engineering Technician.
9. A memorandum dated December 13, 2012 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
10. A letter dated December 12, 2012 from the County of Rockland Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulation §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Ms. Albanese, aye.

Alireza Saifi gave the Board a brief history of the business and its operation.

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TOWN OF ORANGETOWN

TOWN OFFICE

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.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated January 11, 2013 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, and the memorandum dated December 13, 2012 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, 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 presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1 are **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector of Orangetown B.F.P.; the Department of Environmental Management and Engineering, Town of Orangetown; and the Orangetown Office of Building, Planning Zoning Enforcement and Administration, Town of Orangetown; **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, Performance Standards Approval, 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.

**TOWN OF ORANGETOWN**

2013 JAN 29 PM 12:30

**TOWN CLERK'S OFFICE**

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

TOWN CLERKS OFFICE

2013 JAN 29 PM 12:30


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Ms. Albanese, 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 2, 2013

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.O.A.

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

TOWN CLERKS OFFICE

2013 JAN 29 PM 12:30

TOWN OF ORANGETOWN

DECISION

**PERFORMANCE STANDARDS REVIEW APPROVED WITH CONDITIONS**

To: Patrick O'Reilly, P, E.  
Lamont Doherty Earth Observatory  
P.O.Box 1000  
61 Route 9W  
Palisades, New York 10964

ZBA # 13-05  
Date: January 2, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-05:Application of Lamont Doherty Columbia University Earth Observatory pursuant to Section 4.12, Chapter 43 (Zoning) Use subject to Performance Standards Conformance Review with respect to review of interior renovation of laboratories within Core Lab Building built in 1963. The premises are located at 61 Route 9W, Palisades, New York and identified on the Orangetown Tax Map as Section 80.10, Block 1, Lot 2, in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 2, 2013 at which time the Board made the determination hereinafter set forth.

Patrick O'Reilly, Assistant Director, and Bob Carroll, Architect & Project Manager, appeared and testified.

The following documents were presented:

1. Site plan dated November 22, 2005 with the latest revision date of 6 / 14/ 2006 signed and sealed by John R. Atzl, N.Y.S.P.L.S..
2. Project narrative with two computer generated pictures of the proposed lab space.
3. History of Core Repository (2 pages).
4. LEED Waste Management Plan (3pages).
5. Short Environmental Assessment Form.
6. Core Lab Renovations for Bio-Geochemistry dated October 17, 2011(4 pages).
7. CD of Material Safety Data Sheets for Core Lab Renovations for Bio Geochemistry at LDEO dated October 31, 2012.
8. Seven pages listing all of the chemicals used in the building.
9. A book of the Material Safety Data Sheets.
10. Performance Standards Resume of Operations and Equipment form dated November 19, 2012 and signed by Patrick O'Reilly.
11. Fire Prevention Supplement.
12. Two letters dated December 14, 2012 and January 11, 2013 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
13. A letter dated December 14, 2012 from the County of Rockland Department of Planning signed by Thomas B.Vanderbeek, P.E., Commissioner of Planning.
14. A memorandum dated December 11, 2012 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
15. A letter dated November 27, 2012 from the County of Rockland Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer.

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

**TOWN CLERKS OFFICE**

**JAN 29 PM 12:30**

**TOWN OF ORANGETOWN**

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, 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) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Ms. Albanese, aye.

Patrick O'Reilly, Assistant Director, testified that they are modernizing a core building that was constructed in 1963; that they received a federal stimulus grant to do the project; that they are planning to gut the existing lab and modernize it; that there are temporary lights in the building because it is an active construction site; that the new lighting that will be installed when the project is complete will be sensor lighting that will go off when there is no one in the room; and the windows will have shades; that there are outdoor lights at the Warhol building which was constructed in 1927; and the data center is the cause of some of the noise because of the amount of equipment it takes to keep the computers cool; that other equipment is shut-off when the new equipment is tested; that the new units on this building will be tested and they intend to comply with the code; and that they will comply with the code in aggregate testing also.

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

Public Comment:

Roger Hooker, Attorney, representing Mrs. Knowlton and her neighbor, testified that there is an encroachment of light and sound at the property line of these two neighbors; that the second floor of the Core building has bright lights on twenty-four hours a day; that they are disturbing at night and blinds could solve this problem; that the HVAC equipment is very loud and the baffling system that was installed has made the problem worse; that the noise bounces off of the second floor windows and goes right to their properties; that the additional equipment being proposed for this renovation will only increase the existing problem; that testing should be done on all of the accumulative installations and not on the new installation alone.

Grace Knowlton, testified that Dick Greco told her that during this renovation the sound apparatus would be moved but that did not happen; that the volume of sound is unbelievable and that she is the closest neighbor.

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

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

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

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**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing the documents presented, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated January 11, 2013 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, and the memorandum dated December 11, 2012 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the letter dated December 14, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning; the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, 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 presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1 are **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown B.F.P.; the Department of Environmental Management and Engineering, Town of Orangetown; and the Orangetown Office of Building, Planning Zoning Enforcement and Administration, Town of Orangetown; **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, Performance Standards Approval, 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, Performance Standards Approval, 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, performance standards approval, 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

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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, Performance Standards Review, 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 Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Ms. Albanese, 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 2, 2013

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 -B.v.v.

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

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