

**Meeting of March 25, 2015  
Town of Orangetown Planning Board**

**MEMBERS PRESENT:** Kevin Garvey - Chairman, Bruce Bond, Robert Dell, Michael Mandel, William Young, Stephen Sweeney and Thomas Warren

**MEMBERS ABSENT:** None

**ALSO PRESENT:** John Giardiello - Director Department of Building, Zoning, Planning Administration and Enforcement, Robert Magrino - Deputy Town Attorney, Ann Marie Ambrose - Stenographer and Cheryl Coopersmith - Chief Clerk

Kevin Garvey, Chairman, called the meeting to order at 7:30 p.m. Mr. Garvey read the agenda. Hearings as listed on this meeting's agenda which are made a part of these minutes were held as noted below:

**Silva Site Plan**

**PB #15-14**

Critical Environmental Area  
Prepreliminary/ Preliminary/ Final  
Site Plan and SEQRA Review  
929 Route 9W, Upper Grandview  
71.13/1/12; R-22 zoning district

**Final Site Plan Approval  
Subject to Conditions  
Neg. Dec.**

**Other Business:**

1. The Board reviewed and APPROVED the March 20, 2015 request from Snyder & Snyder, LLP, regarding **Wireless Edge Towers, LLC (73.20/1/30)** to remove trees prior to April 1, 2015. The applicant explained that in accordance with the United States Fish and Wildlife Service (USFWS) guidelines, the Indiana bat and Northern long-eared bat are in the vicinity of the property. The guidelines state that no roosting trees shall be disturbed during summer habitat (April 1 – October 14).

2. **The Pointe at Lake Tappan (73.10/1/4)** had two requests that were reviewed and APPROVED by the Planning Board:

a. The Board approved the location of the Construction Trailer. As required by PB #13-20, Condition #28: "The contractor's trailer, if any is proposed, shall be located as approved the Planning Board."

b. The Board approved the removal of trees prior to April 1, 2015, in accordance with (USFWS) guidelines, for the same reason noted above.

The decisions of the March 11, 2015 Planning Board Meeting was reviewed, edited, and approved. The motion for adoption was made and moved by Michael Mandel and seconded by Stephen Sweeney and carried as follows: William Young, aye; Kevin Garvey, aye, Thomas Warren, aye, Robert Dell, aye; Bruce Bond, aye; Stephen Sweeney, aye and Michael Mandel, aye.

The Decisions of the above hearings, as attached hereto, although made by the Board before the conclusion of the meeting are not deemed accepted and adopted by the Board until adopted by a formal motion for adoption of such minutes by the Board. Following such approval and adoption by the Board, the Decisions are mailed to the applicant. The verbatim transactions are not transcribed, but are available.

Since there was no further business to come before the Board, a motion to adjourn the meeting was made by Bruce Bond and seconded by William Young and agreed to by all in attendance. The meeting was adjourned at 7:45 p.m. The next Planning Board meeting is scheduled for April 8, 2015.

**DATED: March 25, 2015**  
**Cheryl Coopersmith, Chief Clerk Boards and Commissions**

*Cheryl A. Coopersmith*

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TO: Dinohra & Raul Silva, 929 Route 9W, Upper Grandview, New York,  
10960

FROM: Orangetown Planning Board

RE: Silva Site Plan: The application of Raul Silva and Dinohra Munuz-Silva, owners, for Prepreliminary/ Preliminary/ Final Site Plan Review to repair a retaining wall, at a site located in the Critical Environmental Area and known as “**Silva Site Plan**”, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 929 Route 9W, Upper Grandview, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 71.13, Block 1, Lot 12 in the R-22 zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held, **Wednesday, March 25, 2015** at which time the Board made the following determinations:

Victoria Silva appeared and testified.

The Board received the following communications:

1. Project Review Committee Report dated March 4, 2015.
2. Interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, P.E., Director, dated March 11, 2015.
3. An interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., dated March 5, 2015.
4. A letter from Brooker Engineering, signed by Kenneth DeGennaro, P.E., dated March 2, 2015.
5. A letter from the Rockland County Department of Planning, signed by Douglas Schuetz, Acting Commissioner of Planning dated March 4, 2015.
6. Letters from the Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated February 10, 2015
7. A letter from the Rockland County Department of Highways, signed by Sonny Lin, P.E., dated March 11, 2015.

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8. A letter from the Rockland County Sewer District No.1, signed by Joseph LaFiandra, Engineer II, dated February 10, 2015.
9. A letter from the Town of Orangetown Zoning Board of Appeals signed by Patricia Castelli, dated February 18, 2015.
10. A letter from the New York State Department of Transportation, signed by Joseph Taylor, Permit Engineer, Rockland County Residency, dated March 9, 2015.
11. A Short Environmental Assessment Form, dated February 5, 2015, signed by Dinohra Silva.
12. A copy of the Building Department Referral, dated November 21, 2014.
13. Survey Plan prepared by Jeffrey W. Donnellon, PLS, dated September 29, 2012.
14. Partial Site Plan, Retaining Wall Plan, Details and Notes, Drawing RW-1, prepared by William A. Truss Engineering, dated September 30, 2014.
15. Presented at the meeting, a letter signed by Mary Kirst, 10 Station Lane.

The hearing was then opened to the Public. There being no one to be heard from the Public, a motion was made to close the Public Hearing portion of the meeting by Bruce Bond and second by Thomas Warren and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; William Young, aye; Robert Dell, aye; Stephen Sweeney, aye; Michael Mandel, aye and Thomas Warren, aye.

The proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA.

On motion by Michael Mandel and seconded by Bruce Bond and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; William Young, aye; Robert Dell, aye; Stephen Sweeney, aye; Michael Mandel, aye and Thomas Warren, aye, the Board declared itself Lead Agency.

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

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After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant's professional representatives, namely William A. Truss Engineering, and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Project Review Committee, Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering, and having heard from the following involved and interested agencies: Town of Orangetown Zoning Board of Appeals, Rockland County Sewer District No. 1, Rockland County Department of Health and having reviewed the Site Plan and Retaining Wall Plan, Details and Notes, a summary of the reasons supporting this determination are, and the Planning Board finds that the proposed action:

- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources; -Will not have an impairment of the character or quality of important aesthetic resources;
- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

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On motion by Bruce Bond and seconded by Stephen Sweeney and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; William Young, aye; Robert Dell, aye; Michael Mandel, aye; Stephen Sweeney, aye and Thomas Warren, aye, the Board made a Negative Declaration pursuant to SEQRA.

**DECISION: In view of the foregoing and the testimony before the Board, the application was GRANTED FINAL SITE PLAN APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The applicant shall contact the Town of Orangetown Building's Department prior to any work on the project site. In addition, the following note shall be placed on the Site Plan: "At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting."
2. The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase II Regulations.
3. Approval from the New York State Department of Transportation shall be obtained to work in and replace the retaining wall within the Route 9W right of way.
4. Show the existing retaining wall on the plan and label the section to be removed and the section to remain, if any.
5. Please show all trees to be removed in the area of the proposed work.
6. The Short Environmental Assessment Form appears to be in order.
7. The Site Plan shall show all existing and proposed grading.
8. The hay bale/ silt fence detail shall be revised to show the silt fence "folded" into the ground (i.e. in an "L" shape.) Also, the hay bales shall be shown on "downhill" side of the proposed silt fence.
9. The hay bales shall be shown on the retaining wall plan view.

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10. The applicant's engineer shall state as to whether the proposed construction will have an effect on drainage (i.e. increase in flow, will it create a point flow, etc. not just drainage pattern.)

**11. Drainage Review Recommendation**

No new impervious area is proposed for the project and existing runoff rates and flow patterns are being maintained. The Planning Board's Drainage Consultant, Brooker Engineering, therefore recommends that the Silva Site Plan: Retaining Wall Site Plan be approved for drainage subject to the following comments.

This is the first drainage review report to the Planning Board for this project. The project involves removal of an existing timber retaining wall and replacement with a gabion basket retaining wall. No new impervious area is proposed. The property is located on the east side of Route 9W, and the retaining wall supports an existing driveway.

**Project Comments**

1. Topography and existing trees shall be added to the Site Plan in the vicinity of the retaining wall replacement. Proposed top and bottom of wall elevations shall be added to the Site Plan and Wall Details.
2. The applicant's engineer shall verify that the existing drainage pattern is being maintained. The macadam driveway is flush with the top of the new wall on the proposed wall details; it shall be verified that stormwater runoff is designed to flow over the top of the new wall or around the wall.
3. The Retaining Wall Plan and Partial Site Plan shall show the existing timber wall to remain and where the new gabion wall will tie into the existing wall. A wall profile shall be added to the plans.
4. It shall be demonstrated that earthwork for the construction of the new retaining wall will not extend beyond the property line; alternatively a temporary construction easement shall be provided.
5. The plans shall state that the retaining wall is designed to support vehicular loading.

12. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

- 1) A review shall be completed by the New York State Department of Transportation and all required permits obtained.
- 2) Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Guidelines for Urban Erosion and Sediment Control.

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13. Based on the information provided, there are no Rockland County Health Department approvals needed for this application.

14. The Rockland County Sewer District #1 does not object to the plan as shown. This project does not affect any sanitary sewers within the District and request no future correspondence for this site.

15. Based on the information provided, the Rockland County Highway Department found that the requested action will have minimum foreseeable adverse impact upon county roads in the area. Since the subject site is more than 500 feet away from any county road in the vicinity, a Rockland County Highway Work Permit will not be required.

16. The New York State Department of Transportation (NYSDOT) reviewed the subject project and had the following comments:

1. A permit from the NYSDOT is required for the proposed construction within the State's right of way.
2. An elevation and profile must be provided to show the connection between the State highway and the driveway.
3. Plans showing the offset of the guide rail from the edge of pavement as well as the proposed wall from the guide rail.
4. Provide pavement limits and details.
5. Sections of the proposed work lies within the property north of the subject project. The NYSDOT requires documents showing consent by the adjacent property owner.

17. All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and/or assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4.

18. The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- New York State Department of Environmental Conservation
- Town of Orangetown Zoning Board of Appeals
- Rockland County Department of Health
- Rockland County Sewer District No. 1

19. The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans prior to signing the final plans.

20. All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site Plan.

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**21. TREE PROTECTION:** The following note shall be placed on the site plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to preserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:

- One (1) foot radius from trunk per inch DBH.
- Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:
  - Light to Heavy Impacts – Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
  - Light Impacts Only – Installation of ¾ inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

**22.** All landscaping shown on the site plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

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23. Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

24. The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

25. If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. In the event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

26. Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

27. Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

28. The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by Thomas Warren and seconded by Stephen Sweeney and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; William Young, aye; Michael Mandel, aye; Thomas Warren, aye; Robert Dell, aye and Stephen Sweeney, aye.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and file a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

**Dated: March 25, 2015**  
**Town of Orangetown Planning Board**  
attachment



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**State Environmental Quality Review Regulations  
NEGATIVE DECLARATION  
Notice of Determination of Non-Significance**

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This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**NAME OF ACTION: Silva Site Plan – Retaining Wall**

SEQR STATUS: Type I \_\_\_\_\_ Unlisted XXXXXX  
CONDITIONED NEGATIVE DECLARATION: Yes \_\_\_\_\_ No XXXXXX

**DESCRIPTION OF ACTION: Site Plan – Critical Environmental Area**

**LOCATION:** The site is located at 929 Route 9W, Upper Grandview, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 71.13, Block 1, Lot 12 in the R-22 zoning district.

**REASONS SUPPORTING THIS DETERMINATION:**

The Orangetown Planning Board, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed development. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement; Town of Orangetown; 20 Greenbush Road Orangeburg, NY 10962; Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental Conservation, - Region 3 Headquarters, NYSDEC, - Town Supervisor, Applicant - Involved Agencies

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