

MINUTES
 ZONING BOARD OF APPEALS
January 8, 2014

MEMBERS PRESENT: JOAN SALOMON
 NANETTE ALBANESE
 PATRICIA CASTELLI
 DANIEL SULLIVAN
 LEONARD FEROLDI, ALTERNATE

ABSENT: 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

POSTPONED ITEM:

EGGERS AUTOMOTIVE 68.20 / 5 / 4; CO zone	POSTPONED	ZBA#13-85
HAGAN-MOLLICA 65.12 / 1 / 3; R-80 zone	APPROVED	ZBA#13-91

CONTINUED ITEM:

ZAPATA SIDEWALK DINING 77.20 / 2 / 24; R-15 zone	CONTINUED	ZBA#13-92
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NEW ITEMS:

ESGATE/REICHELDERFER 71.13 / 1 / 36; R-22 zone	APPROVED	ZBA#14-01
EICHNER 68.16 / 5 / 21; CC zone	CONTINUED	ZBA#14-02
CATON 64.18 / 1 / 49; R-15 zone	APPROVED	ZBA#14-03
CEROVENE INC. PERFORMANCE STANDARDS 73.20 / 1 / 35; LIO zone	APPROVED	ZBA#14-04

TOWN CLERKS OFFICE
 2014 JAN 28 PM 11 13
 TOWN OF ORANGETOWN

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: 155 Corporate Drive Site Plan Amendment; 155 Corporate Drive, Orangeburg, NY ; 73.15 / 1 / 18 & 73.19 / 1 / 1; LIO 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 9:30 P.M.

Dated: January 8, 2014

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
2014 JAN 28 AM 11 13
TOWN OF ORANGETOWN

MINUTES
ZONING BOARD OF APPEALS
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PUBLISHED ITEMS
APPLICANTS DECISIONS

POSTPONED ITEM:

EGGERS AUTOMOTIVE POSTPONED ZBA#13-85
68.20 / 5 / 4; CO zone

HAGAN-MOLLICA APPROVED ZBA#13-91
65.12 / 1 / 3; R-80 zone

CONTINUED ITEM:

ZAPATA SIDEWALK DINING CONTINUED ZBA#13-92
77.20 / 2 / 24; R-15 zone

NEW ITEMS:

ESGATE/REICHELDERFER APPROVED ZBA#14-01
71.13 / 1 / 36; R-22 zone

EICHNER CONTINUED ZBA#14-02
68.16 / 5 / 21; CC zone

CATON APPROVED ZBA#14-03
64.18 / 1 / 49; R-15 zone

CEROVENE INC. APPROVED ZBA#14-04
PERFORMANCE STANDARDS
73.20 / 1 / 35; LIO zone

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

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: 155 Corporate Drive Site Plan Amendment; 155 Corporate Drive, Orangeburg, NY ; 73.15 / 1 / 18 & 73.19 / 1 / 1; LIO 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.

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Dated: January 8, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

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

TOWN CLERKS OFFICE
2014 JAN 28 AM 11 12
TOWN OF ORANGETOWN

DECISION

FRONT YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Mark Hagan/ Patti Mollica
990 Bradley Hill Parkway
Blauvelt, New York 10913

ZBA # 13-91
Date: January 8, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-91: Application of Mark Hagan and Patti Mollica for variances from Chapter 43 (Zoning) Section 3.12, R-80 District, Group A, Columns 8 (Front Yard: 50' required, 1.5' and 8' proposed), and 12 (Building Height: 8' & 12' per foot permitted; 12' proposed) for a carport at an existing single-family residence. The property is located at 990 Bradley Hill Parkway, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.12, Block 1, Lot 3; R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 8, 2014 at which time the Board made the determination hereinafter set forth.

Patricia Mollica Hagan, Mark Hagan and Robert Silarski, Architect, appeared and testified.

The following documents were presented:

1. Site plan and Architectural plans dated 08/14/2013 with the latest revision date of 09/06/ 2013 signed and sealed by Robert Silarski, Architect. (3 pages)
2. Site plan and Architectural plans dated 08/14/2013 with the latest revision date of 12/12/ 2013 signed and sealed by Robert Silarski, Architect. (2 pages)
3. A cover letter dated December 10, 2013 from Robert Silarski, Architect.
4. A letter dated November 18, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated November 19, 2013 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.

Mr. Sullivan, Chair, 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, 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. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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Robert Silarski, Architect, testified that the scope of the project has been reduced; that the request has been changed to a carport with a storage shed attached to it and it is proposed to be built on the southeast corner of the property; that the existing carport was destroyed in Super Storm Sandy; that the applicant has two cars and a camper; that the additional storage shed would house the snow blower and lawn equipment; that the house does not have a basement and the storage shed would be used to store items that would be in a basement also; that the site is large but much of it has slopes greater than 25% or more; that there are three buildable areas on the site; that the area west of the house is relatively

flat but the septic system is there ; that the eastern central area of the lot is level but has many trees and shrubs and seasonal run-off takes place in portion of the property; that the southeast is level and the trees that are there are scrub trees and easily removable; that the structure has a low flat roof and is open on three sides; that the storage shed takes up 25% of the building and is enclosed; that the structure is set back from Bradley Hill Road 25'; and that Mr. Benson is responding to the first set of plans that were submitted; that these new plans are for only one building and are set back further from the park.

Mark Hagan testified that they have owned the house for thirteen years; that they lost a car in Super Storm Sandy; that they have a fiberglass camper that has been damaged from tree branches; that they would like to have roof over it to protect it;

Public Comment:

Benson Blake, 982 Bradley Parkway; testified that he is the owner of the next property over; that he has a long driveway; that he has lived there since 1995; that his mother sold property to the Town for parkland; that the R-80 regulations are very important to be upheld; that they should be enforced to prevent over development; that the setback from the road is 100' and they are asking for 10'; that the house is only 30' from the property line and 40' from the long path; that the buildings are inappropriate; that two carports and additional living structure are inappropriate and ugly; that his family has a long history there; that the R-80 rules should be strictly enforced; and that he would not object to replacing the carport that was damaged from the storm, if it was replaced on the same footprint.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' original carport was destroyed from Super Storm Sandy. The property is large and has many slopes of 25% or more. The new proposed carport and storage shed shall be located on a level portion of the property in the southeast corner of the lot.

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2. The requested front yard and building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' original carport was destroyed from Super Storm Sandy. The property is large and has many slopes of 25% or more. The new proposed carport and storage shed shall be located on a level portion of the property in the southeast corner of the lot.
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 front yard 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 applicants' original carport was destroyed from Super Storm Sandy. The property is large and has many slopes of 25% or more. The new proposed carport and storage shed shall be located on a level portion of the property in the southeast corner of the lot.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard and 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.

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(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 front yard and building height variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Albanese, nay; Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: January 8, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2014 JAN 28 AM 11 12
TOWN CLERKS OFFICE

DECISION

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Pat Esgate
101 Gedney Street Apt. EE
Nyack, New York 10960

ZBA # 14-01
Date: January 8, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-01: Application of Pat Esgate and Brenda Reichelderfer for a variance from the Zoning Code of the Town of Orangetown, Chapter 43 of Orangetown Code, Section 5.226 (Front Yard Fence Height: 4 ½' permitted; 6' fence proposed) at an existing single-family residence. The premises are located at 67 Tweed Boulevard, Upper Grandview, New York and are identified on the Orangetown Tax Map as Section 71.13, Block 1, Lot 36; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 8, 2014 at which time the Board made the determination hereinafter set forth.

Pat Esgate appeared and testified.

The following documents were presented:

1. A cover letter dated November 6, 2013 from Pat Esgate.
2. Site plan.
3. Site plan showing placement of new fence and existing fences.
4. A computer generated picture of proposed black aluminum fence.
5. A letter dated December 16, 2013 from the County of Rockland Department of Planning signed by Thomas Vandebek, P.E., Commissioner of Planning.
6. A letter dated December 9, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

Mr. Sullivan, Chair, 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, 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. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Pat Esgate testified that she is before the Board to request a variance for a six-foot fence in the front yard; that they are replacing an existing 4 ½' fence that was damaged during Super Storm Sandy; that there are very specific reasons that they are requesting a higher than permitted fence; that they have an in-ground pool in the rear of the house; that when she was seven years old, her sister fell in their backyard pool and was not found for twenty minutes and a back yard drowning scares her to death; that Tweed is pretty deserted; that they travel a lot and have recently become snowbirds and are gone for a large portion of the winter; and that a six foot fence would better protect from anyone wandering on to the property and falling into the pool.

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Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. 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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar fences have been installed in the area and this style fence blends in to the area and is transparent.
2. The requested front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar fences have been installed in the area and this style fence blends in to the area and is transparent.
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 front yard fence height variance is not substantial because the fence is transparent.
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
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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 fence height 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
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The foregoing resolution to approve the application for the requested front yard fence height variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: January 8, 2014

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.W.

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

TOWN CLERKS OFFICE
2014 JAN 29 AM 10 04
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, LOT AREA AND FRONT YARD VARIANCES
APPROVED**

To: Scott and Julie Caton
11 Summit Place
Nanuet6, New York 10954

ZBA # 14-03
Date: January 8, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-03: Application of Scott and Julie Caton for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .29 proposed), 5 (Lot Area: 15,000 sq. ft. required; 10,777 sq. ft. existing) and 8 (Front Yard: 30' required, 21' existing, 21.5' & 20' proposed) for an addition to an existing single-family residence. The premises are located at 11 Summit Place, Nanuet, New York and are identified on the Orangetown Tax Map as Section 64.18, Block 1, Lot 49; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 8, 2014 at which time the Board made the determination hereinafter set forth.

Scott and Julie Caton appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/30/2013, signed and sealed by Harry J. Goldstein, Architect. (4 pages)
2. Survey dated March 26, 2008 by Frank M. Hoens, PLS.
3. A letter signed by five abutting property owners in support of the application.

Mr. Sullivan, Chair, 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, 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. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Scott Canton testified that they purchased their house six years ago; that at the time they had one child and presently, they have three children; that the house is a Cape Cod style house that has two bedrooms upstairs with a bathroom; that presently they have two children upstairs and they and the baby are downstairs; that the existing kitchen is not large enough for all them to eat together; that their goal is to move all of the bedrooms upstairs and expand the living area downstairs; and similar additions have been constructed in the neighborhood.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, lot area, and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested floor area ratio, lot area, and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
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 floor area ratio, front yard and lot area variances, although substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area.
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, lot area and front 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
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The foregoing resolution to approve the application for the requested floor area ratio, lot area, and front yard variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: January 8, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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DECISION
PERFORMANCE STANDARDS APPROVED

To: Ray DiFalco (Cerovene)
612 Corporate Way Suite 10
Valley Cottage, New York 10989

ZBA # 14-04
Date: January 8, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-04: Application of Cerovene Inc. for Performance Standards Review pursuant to Chapter 43 (Zoning) Section 4.12 for a pharmaceutical research and manufacturing facility. The property is located at 10 Corporate Drive, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 35; LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 8, 2014 at which time the Board made the determination hereinafter set forth.

Ray DiFalco, President, and Bob Schwab, Facilities Manager, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Scope of Work Areas Cerovene" dated 10/03/2013 with the latest revision date of 11/20/2013 , not signed or sealed by Henry Thompson, Architect.
2. Summary narrative.
3. Material Data Safety sheets for components used in the machines for dry cleaning.
4. Performance standards resume of operation and equipment form dated December 2, 2013 with supplemental pages attached.
5. Fire prevention supplement form.
6. Cerovene Inc. General Presentation dated December 2013 (10 pages).
7. A CD with all of the Material Data Sheets.
8. Inspirion Delivery Technologies (23 pages).
9. A letter dated December 13, 2013 from the Town of Orangetown, Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Commissioner.
10. A letter dated December 23, 2013 from the Town of Orangetown, Bureau of Fire Prevention signed by Michael B. Bettmann, Chief Fire Inspector.
11. A memorandum dated December 10, 2013 from the County of Rockland Department of Planning.
12. A letter dated December 10, 2013 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
13. A letter dated Dec. 31, 2013 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

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

Ray DiFalco, President, Cerovene, testified that the company is an oral drug delivery system developer that has been developing a formulation of oxycodone and morphine utilizing a unique abuse deterrent technology; that the facility has been approved to manufacture RC0358843; that they recognized to unmet public need to combat the escalating epidemic of opioid abuse and addiction; that the abuse deterrent technology has the objective of hindering opioid misuse and abuse, while ensuring appropriate

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patient access to much needed pain therapies; that the FDA has acknowledged that it is supportive of accelerated review for both NDAs within six months after filing; this leads to commercial manufacturing; that all manufacturing waste is required to be collected and reconciled to 99%; that this means that any powder from the manufacturing operations must be collected and accounted for; that no pharmaceutical waste will be disposed of or poured down any municipal drain; that the only drain locations will be in the lab and manufacturing washroom; that the equipment is washed down with a PH neutral soap called Alconox; that this material is used commonly in the pharmaceutical industry; that the facility will not vent any powders or solvents; that 90% of all operations are water based; that the facility will make use of dust collectors and an oxidizer; and that the dust collectors will only see very small amounts of powder since a 99% reconciliation must be conducted on the batches being manufactured.

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, 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. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Feroldi, aye. Mr. Bosco was absent.

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.

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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 December 13, 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 Zoning Code § 4.1 Performance Standards, and the memorandum dated December 23, 2013 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, is **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.; **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, 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, 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, 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, Performance Standards, 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, with aforesaid conditions, the application for Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Feroldi; aye. Mr. Bosco was absent.

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

DATED: January 8, 2014

ZONING BOARD OF APPEALS
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