

MINUTES
ZONING BOARD OF APPEALS
JUNE 3, 2015

MEMBERS PRESENT: DAN SULLIVAN
JOAN SALOMON
LEONARD FEROLDI, ALTERNATE
PATRICIA CASTELLI

ABSENT: MICHAEL BOSCO
THOMAS QUINN

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

O'SULLIVAN 34 Hawk Street, Pearl River, NY 69.18 / 1 / 63; R-15 zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#15-39
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NEW ITEMS:

HELLER 125 S. Reld Drive, Pearl River, NY 69.10 / 1 / 39; R-15 zone	FRONT YARD, SIDE YARD ACCESSORY STRUCTURE IN FRONT YARD VARIANCES APPROVED	ZBA#15-43
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MALLEY 27 Buttonwood Place, Blauvelt, NY 69.20 / 1 / 44; R-15 zone	SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#15-44
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HOLT CONSTRUCTION 23 & 50 E. Washington Avenue, Pearl River, NY 68.16 / 6 / 6 & 68.16 / 4 / 34; CS zone	FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, §6.33 VARIANCES APPROVED	ZBA#15-44
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BOWMAN BUILDERS 28 Center Street, Pearl River, NY 68.19 / 2 / 41; RG zone	FLOOR AREA RATIO, LOT AREA, LOT WIDTH, AND §5.21e APPLIES APPROVED	ZBA#15-46
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TOWN OF ORANGETOWN

DOMINICAN CONVENT
EMERGENCY GENERATOR
PERFORMANCE STANDARDS
175 Route 340
Sparkill, NY
74.16 / 1 / 2.1; R-40 zone

APPROVED

ZBA#15-47

SKAE 348 ROUTE 9W
GENERATOR
PERFORMANCE STANDARDS
348 Route 9W, Palisades, NY
78.09 / 1 / 26 & 27; LO zone

APPROVED

ZBA#15-48

OTHER BUSINESS:

Proposed Local Law relating to Prohibited Uses Town wide § 10.5 Review

There were only four members present and the Board has requested that the Town Board allow them more time to discuss the matter; and that they will continue the discussion and try to have a response before the next Town Board meeting.

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

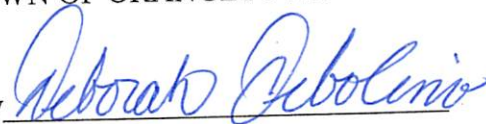
The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

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

Dated: June 3, 2015

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

2015 JUN 25 AM 11 06

TOWN OF ORANGETOWN

DECISION

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

To: Sean and Susan O'Sullivan
4 Hawk Street
Pearl River, New York 10965

ZBA #15-39
Date: May 20, 2015 & June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-39: Application of Sean and Susan O'Sullivan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 12.4' proposed), 10 (Total Side Yard: 50' required, 39.6' proposed) and 12 (Building Height: 12.4' permitted, 21.8' proposed) for an addition to an existing single-family residence. The premises are located at 34 Hawk Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 1, Lot 63; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, May 20, 2015 and June 3, 2015 at which time the Board made the determination hereinafter set forth.

Sean and Susan Sullivan and Cliff Herbst, P.E., appeared and testified at both hearings.

The following documents were presented:

1. Copy of site plan dated March 28, 2015 signed and sealed by Clifford A. Herbst, P.E. (1 page).
2. Architectural plans labeled O'Sullivan Residence with the latest revision date of 3/29/ 2015 signed and sealed by Clifford A. Herbst, P.E..
3. A petition in support of the application signed by eight neighbors.

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

At the May 20, 2015 Zoning Board of Appeals Hearing and on advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Ms. Sullivan, aye. Mr. Bosco was absent on May 20, 2015.

At the May 20, 2015 meeting concerns were expressed by members of the Board that the applicant may need more variances than were published and questioned why the application was split into two permits.

Cliff Herbst, P.E., explained that they were told that a building permit was necessary for each structure and that is why there are two permits and that the accessory structure has a permit and they have started construction on it; and asked for a continuance to get clarification from the Building Inspector.

At the June 3, 2015 meeting Cliff Herbst explained that the floor area of the proposed shed was included in the calculations for the addition; that the rear corner of the proposed addition is the only section of the proposal that has a 12.4' side yard because the property line slopes in; that the front portion of the addition will have a 16.9' side yard; that there is approximately 35 to 40 feet from the proposed addition to the neighbors' house; that

TOWN OF ORANGETOWN
TOWN CLERK'S OFFICE
JUN 25 11 06 AM '15

there is a fence along that property line; that there are other houses in the area that have constructed similar and larger additions; and that it would be difficult to reduce the 12.4' side yard because of the slope of the property line.

Public Comment:

Dermit Fenlon, 2 Jay Place, stated that he is an adjoining neighbor and he does not object to the extension but he has a problem with the 12' property line.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. 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 side yard, total side 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' property line slants in and the proposed addition starts out with a 16.9' side yard and ends with a 12.4' side yard because of the slope to the property line. 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.

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 side yard, total side yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

TOWN CLERKS OFFICE
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The foregoing resolution to approve the application for the requested side yard, total side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Bosco and Mr. Quinn were absent.

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

DATED: June 3, 2015

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 CLERKS OFFICE
2015 JUN 25 AM 11 06
TOWN OF ORANGETOWN

DECISION
**FRONT YARD, SIDE YARD AND ACCESSORY STRUCTURE IN FRONT
YARD VARIANCES APPROVED**

To: Laura Heller
125 South Reld Drive
Pearl River, New York 10965

ZBA #15-43
Date: June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-43: Application of Laura Heller for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Column 8 (Front Yard: 35' required, 30' proposed), and 9 (Side Yard: 20' required, 15' proposed) and from section 5.153 (No accessory structure permitted in the front yard) for an above-ground pool at an existing single-family residence. The premises are located at 125 South Reld Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.10, Block 1, Lot 39; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2015 at which time the Board made the determination hereinafter set forth.

Laura Heller appeared and testified.

The following documents were presented:

1. Copy of survey with pool drawn in the proposed location. (1 page).
2. Pool Specs.

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

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

Laura Heller testified that her house is on a corner lot and she has two front yards; that she is proposing to install the pool in her back yard but it is considered a front yard because of the corner lot; and that there is nowhere on her property that she could install a pool without needing a variance and there are at least three other properties on the block with above-ground pools.

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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 front yard, side yard and § 5.153 (accessory structure in a front yard) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has a corner lot with two front yards and the pool is proposed for an area that they utilize as a rear yard.
2. The requested front yard, side yard and § 5.153 (accessory structure in a front yard) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has a corner lot with two front yards and the pool is proposed for an area that they utilize as a rear yard.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant has a corner lot with two front yards and the pool is proposed for an area that they utilize as a rear yard.
4. The requested front yard, side yard and § 5.153 (accessory structure in a front yard) variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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

2015 JUN 25 PM 11 06

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard, side yard and § 5.153 (accessory structure in a 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
2015 JUN 25 PM 11 06
TOWN OF ORANGETOWN

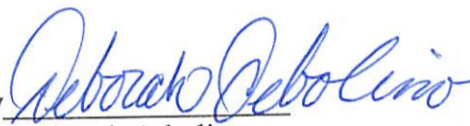
Heller
ZBA#15-43
Page 4 of 4

The foregoing resolution to approve the application for the requested front yard, side yard and § 5.153 (accessory structure in a front yard) variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Mr. Quinn were absent.

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

DATED: June 3, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2015 JUN 25 AM 11 06
TOWN CLERKS OFFICE

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

To: Tim Malley
27 Buttonwood Place
Blauvelt, New York 10913

ZBA #15-44
Date: June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-44: Application of Tim Malley for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 10' 4" proposed), 10 (Total Side Yard: 50' required, 41.5' proposed) and 12 (Building Height: 10' 4" permitted, 23.33' proposed) for an addition to an existing single-family residence. The premises are located at 27 Buttonwood Place, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.20, Block 1, Lot 44; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2015 at which time the Board made the determination hereinafter set forth.

Tim Malley appeared and testified.

The following documents were presented:

1. Survey dated February 25, 2015 signed and sealed by Anthony R. Celentano, P.L.S.. (1 page).
2. Architectural plans dated 3/31/2015 by Paul Douglas Siebenaler, Architect (2 pages).
3. A letter dated May 18, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated May 7, 2015 from the County of Rockland Department of Health, signed by Scott McKane, P.E..
5. Three letters in support of the application.

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

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

Douglas Seibenaler, Architect, testified that they are adding a garage to the left side of the structure and expanding the second story to construct a usable second story; that presently the ceiling heights on the second floor are only six foot; that the lot is narrow and long which contributes to the need for variances; and that there are many other houses in the area that have done additions; that the house across the street and both houses on either side have done major additions/ alterations to the original structures.

Tim Malley testified that the existing house has two bedrooms and he and his wife have two children and another is due next month; and that the two sheds existed on the property when he purchased the house and one is 10' x 10' and the other is 6' x 5'.

TOWN OF ORANGETOWN
2015 JUN 11 10:55
TOWN CLERK

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 side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. 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 side yard, total side 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. 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.

TOWN CLERKS OFFICE

2015 JUN 25 AM 11 06

TOWN OF ORANGETOWN

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

General Conditions:

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

TOWN CLERKS OFFICE
2015 JUN 25 AM 11 06
TOWN OF ORANGETOWN

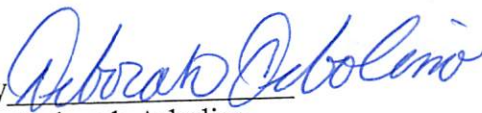
The foregoing resolution to approve the application for the requested side yard, total side yard and building height variances was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco and Mr. Quinn were absent.

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

DATED: June 3, 2015

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
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BUILDING INSPECTOR-R.A.O.

TOWN CLERK
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE
2015 JUN 25 AM 11 06
TOWN OF ORANGETOWN

DECISION

**FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, § 3.11 NOTE
2 BUFFER AND § 6,33 LOCATION AND OWNERSHIP VARIANCES
APPROVED**

To: John Atzl (Holt Construction)
234 No. Main Street
New City, New York 10956

ZBA #15-45
Date: June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-45: Application of Holt Construction Corporation Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 3.12, Group FF, Columns 8 (Front Yard: 0' or 45' required, 31.6' existing) , 9 (Side Yard: 0/12' permitted, 2.3' proposed for new addition and 2.2' existing for one story frame building, 1.5' to existing storage shed), 10 (Total Side Yard: 0/25' required, 3.7' existing) and 11 (Rear Yard: 25' required, 1.7' existing) for lot 68.16/ 6 / 6 and note 2 of the notes to use and bulk table states: Where a side or rear lot line of a lot in the CS adjoins or lies within 25 feet of any R District the following buffer shall be required, 15' for side yard and 50' for rear yard. The site plan has a 12' proposed for the side opposite East Washington Avenue and 0' proposed for the side opposite North William Street. Since this is a corner lot the applicant can choose the rear and side lot lines; Section 6.33 (Locations and ownership of required accessory parking facilities. Required accessory parking spaces, open or enclosed, may be provided upon the same lot as the use to which they are accessory, or elsewhere, provided that all spaces therein are located within one thousand (1,000) feet walking distance of such lot. In all cases, such parking spaces shall conform to all the regulations for the district in which they are located, and in no event shall such parking spaces be located in any R District unless the uses to which they are accessory are permitted in such districts. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restrictions, filed with the County Clerk, binding the owner and his heirs and assigns to maintain the required number of spaces available either throughout the existence of such use to which they are accessory or until such spaces are provided elsewhere.) The properties are located at 23 & 50 East Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 6, Lot 6 & Section 68.16, Block 4, Lot 34 ; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2015 at which time the Board made the determination hereinafter set forth.

John Atzl, L.S., Jack Holt and Patricia Zugibe appeared and testified.

The following documents were presented:

1. Plan labeled "Holt Construction Corp." dated 2/19/2015 with the latest revision date of 4/23/2015 signed and sealed by John R. Atzl L.S., and Ryan A. Nasher, P.E. (4 pages).
2. A letter dated May 15, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated June 1, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning board acting as Lead Agency for this application, pursuant to coordinated review under the State Environmental Quality Review Act (SEQRA), pursuant to

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review and, on April 22, 2015, rendered an environmental determination of **no significant** adverse environmental impacts to result from the proposed land use (i.e., a “Negative Declaration” or “Neg. Dec.”), the ZBA is bound by the Planning Board’s Neg. Dec. and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulation § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Mr. Bosco and Mr. Quinn were absent.

John Atzl testified that Holt Construction has been in this location for 90 years; that they are proposing a 1,334 sq. ft. one-story addition for office space; that this space was at one time used for mill work; that the majority of the variances are for existing conditions; that the additional lot is located diagonally across the intersection; that there was an illegal two-family there; that they are planning to use that for parking and are having conversations with the neighbor regarding the landscaping; that they are proposing a fence and a buffer along the residential side of the property; that they are not presently expecting new employees but need the space for computers, smart desks and future growth; that they are required to have 43 parking spaces and will have 49; and they will use these spaces for monthly meetings when employees come from other sites.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard, side yard, total side yard, rear yard, § 3.11 Note #2 buffer, and § 6.33 (location and ownership) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The majority of the requested variances are for pre-existing non-conforming conditions. Tying these two properties to each-other to gain more parking in the hamlet of Pearl River, where parking is at a premium is good planning.
2. The requested front yard, side yard, total side yard, rear yard, § 3.11 Note #2 buffer, and § 6.33 (location and ownership) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The majority of the requested variances are for pre-existing non-conforming conditions. Tying these two properties to each-other to gain more parking in the hamlet of Pearl River, where parking is at a premium is good planning.

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3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard, side yard, total side yard, rear yard, § 3.11 Note #2 buffer, and § 6.33 (location and ownership) 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 majority of the requested variances are for pre-existing non-conforming conditions. Tying these two properties to each-other to gain more parking in the hamlet of Pearl River, where parking is at a premium is good planning.
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, side yard, total side yard, rear yard, § 3.11 Note #2 buffer, and § 6.33 (location and ownership) variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested front yard, side yard, total side yard, rear yard, § 3.11 Note #2 buffer, and § 6.33 (location and ownership) variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: June 3, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2015 JUN 25 AM 11 07
TOWN CLERKS OFFICE

DECISION
**FLOOR AREA RATIO, LOT AREA, LOT WIDTH AND BUILDING HEIGHT
VARIANCES APPROVED: SECTION 5.21e UNDERSIZED LOT APPLIED**

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

ZBA #15-46
Date: June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-46: Application of Bowman Builders for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor area ratio: .30 permitted, .36 proposed), 5 (Lot Area: 10,000 sq. ft. required, 6,772 sq. ft. existing), 6 (Lot Width: 75' required, 62.72' existing) and Section 5.21e (Undersized Lot applies: 20' permitted for height, 22' 3" proposed) for the construction of a new single-family residence. The premises are located at 28 Center Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 2, Lot 41; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2015 at which time the Board made the determination hereinafter set forth.

Jane Slavin, Architect, and Robert Bowman appeared and testified.

The following documents were presented:

1. Survey of property prepared for Bowman Builders, Inc. "Existing Conditions" dated March 18, 2015 signed and sealed by Donald R. Stedge, P.L.S.
2. Survey of property for Bowman Builders, Inc., "Plot Plan" dated March 18, 2015 signed and sealed by Donald R. Stedge, P.L.S..
3. Architectural plans dated February 9, 2015 with the latest revision date of March 27, 2015 signed and sealed by Jane Slavin, Architect, (3 pages).
4. A letter dated May 14, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated June 1, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
6. Ten pages of pictures and maps of the area submitted at the hearing.

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

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

Jane Slavin, Architect, testified that the existing house on the lot is in great disrepair that it is non-conforming is its side yard and front yard setback; that it is not worth trying to repair because of the shape it is in; that they are planning to demolish the existing house and build a new house that conforms to the front and side yard setbacks; that the lot is undersized by 33%; that they are proposing 2,075 sq. ft. of living space in the new house and a total of 2,453 sq. ft. with the garage and porch; that if the lot conformed they would be able to build a 3,000 sq. ft. house without a variance; that they also need a 2' 3" variance for height but the style of the proposed roof is in keeping with the character of the neighborhood; and she submitted pictures to the Board for their review of the area and comparable houses 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, lot width and building height variances (§ 5.21 e undersized lot applies) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar size house exist in the neighborhood.
2. The requested floor area ratio, lot area, lot width and building height variances (§ 5.21 e undersized lot applies) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar size house exist in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, lot area, lot width and building height variances (§ 5.21 e undersized lot applies), although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar size house exist in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, lot area, lot width and building height variances (§ 5.21 e undersized lot applies), variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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The foregoing resolution to approve the application for the requested floor area ratio, lot area, lot width and building height variances (§ 5.21 e undersized lot applies), was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: June 3, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION
PERFORMANCE STANDARDS APPROVED WITH CONDITONS

To: Thomas D. McMenamin
10 Sloane Court
Stony Point, New York 10980

ZBA #15-47
Date: June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-47: Application of Dominican Convent for review of the Performance Standards Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Section 4.12 for an emergency generator located at 175 Route 340, Sparkill, New York and identified on the Orangetown Tax Map as Section 74.16, Block 1, Lot 2.1; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2015 at which time the Board made the determination hereinafter set forth.

Thomas D. Mc Menamin, Engineer, and Sister Joanne Deas appeared and testified.

The following documents were presented:

1. Plans labeled "Amendment to Site Plan-Proposed Two Emergency Generators" dated 1/20/2015 , signed and sealed by Thomas D. McMenamin, P.E. (8 pages).
2. Warshauer Generator LLC specifications (16 pages).
3. Performance standards resume of operations and equipment dated April 30, 2015.
4. Fire Prevention Supplement.
5. Planning Board Decision #10-57 dated December 10, 2010.
6. Zoning Board Decision #11-07 dated January 19, 2011.
7. A letter dated May 22, 2015 from the Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Town of Orangetown.
8. A memorandum dated May 18, 2015 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
9. A Sound Test Results by Generac Industrial Power (5 pages) with two pictures attached of the landscaping around the larger generator that was installed previously.

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

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

Thomas D. McMenamin, P.E., testified that the they are applying for two natural gas fired emergency generators that would take of the north and south wings; that this is the residential section and it would supply power for the elevators and lights and all life safety issues for the building; that the first generator that was installed for the 2nd floor infirmary and dining hall served well during super storm sandy and now they would like to install two more smaller generators to allow the sisters to stay in the north and south wings in case of another prolonged outage; and that he will see if there is a natural gas detector in the unit.

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Sister Joanne Deas testified that the generators are needed for the elevators and life safety issues because the sisters are aging.

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

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated May 22, 2015 from Joseph J. Moran, P.E., Commissioner of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.) states that more information must be provided to show that the emergency generator conforms to Section 4.1 of the Orangetown Zoning Code; the report dated May 18, 2015 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

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DECISION: In view of the foregoing and the testimony and documents submitted, the Board RESOLVED that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated May 18, 2015; and (2) that the Applicant adhere to all of the requirements set forth by the report dated May 22, 2015 from Joseph J. Moran, P.E., Commissioner, DEME and submit more information to show that the standby generator conforms to Section 4.1 of the Orangetown Zoning Code.; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for Conformance to Zoning Code §4.1 Performance Standards Review with the Specific Conditions (a) that a report be provided by the DEME that the proposed standby emergency generator conforms to Section 4.1 of the Orangetown Zoning Code and (b) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated May 18, 2015;, was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: June 3, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2015 JUN 25 AM 11 07
TOWN CLERKS OFFICE

DECISION
PERFORMANCE STANDARDS APPROVED WITH CONDITONS

To: Donald Brenner (Skae generator)
4 Independence Avenue
Tappan, New York 10983

ZBA #15-48
Date: June 3, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-48: Application of Peter Skae for review of the Performance Standards Zoning Code (Chapter 43) of the Town of Orangetown Code, LO District, Section 4.12 for a generator at a data processing building located at 348 Route 9W, Palisades, New York and identified on the Orangetown Tax Map as Section 78.09, Block 1, Lot 26 &27; in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 3, 2015 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled " Tax Lot: 78.09-1-26 & 27 Columcille Properties LLC & 348 Realty Associates LLC dated April 15, 2011 with the latest revision date of 11/17/2014 signed and sealed by John R. Atzl, L.S. (1 page).
2. Generator specifications labeled" Enclosure and sound data sheet-diesel" (3 pages).
3. Performance standards resume of operations and equipment dated March 25, 2015.
4. Fire Prevention Supplement.
5. Zoning Board Decision \$14-88 and Planning Board Decision #13-08.
6. A letter dated May 12, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A letter dated May 8, 2015 from the Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Town of Orangetown.
8. A memorandum dated June 1, 2015 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.

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

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

Donald Brenner, Attorney, testified that that this is a different kind of an emergency generator; that this is a data center and the emergency generator is essential in case of a power outage to kick in in order not lose any data; that this is a 500 kw diesel fuel generator; that it will enclosed in a tank cradle and will be used for the second floor data storage; that it will not exceed 70 Dec. and will run a test every Saturday for one house.

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

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated May 8, 2015 from Joseph J. Moran, P.E., Commissioner of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 1, 2015 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

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DECISION: In view of the foregoing and the testimony and documents submitted, the Board RESOLVED that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated June 1, 2015; and (2) that the Applicant adhere to all of the requirements set forth by the report dated May 8, 2015 from Joseph J. Moran, P.E., Commissioner, DEME.; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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


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The foregoing resolution to approve the application for Conformance to Zoning Code §4.1 Performance Standards Review with the Specific conditions that the applicant adhere to all of the requirements set forth in the report dated May 8, 2015 from Joseph J. Moran, P.E., Commissioner of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 1, 2015 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Quinn and Mr. Bosco were absent.

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

DATED: June 3, 2015

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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