

MINUTES
ZONING BOARD OF APPEALS
JUNE 4, 2014

MEMBERS PRESENT: JOAN SALOMON
 PATRICIA CASTELLI
 THOMAS QUINN
 LEONARD FEROLDI, ALTERNATE
 DANIEL SULLIVAN, CHAIRMAN

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

NEW ITEMS:

FULGIONE 77.11 / 1 / 24; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#14-38
FAIR 70.17 / 3 / 36; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#14-39
MILLS 69.06 / 1 / 54; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#14-40
BERGE 69.18 / 1 / 68; R-15 zone	FLOOR AREA RATIO, AND TOTAL SIDE YARD VARIANCE APPROVED	ZBA#14-41
MARACICH 69.17 / 1 / 53; R-15 zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#14-42

Other Business:

Reserved decision made

LSI SERVICES 76.08 / 1 / 1; LIO zone	LOT AREA, LOT WIDTH, STREET FRONTAGE, SIDE YARD, TOTAL SIDE YARD, REAR YARD, BUILDING HEIGHT, DEVELOPMENT COVERAGE, § 3.11 LO DISTRICT, COLUMN 7, # 2 OUTDOOR STORAGE, § 3.11, COLUMN 6 OFF-STREET PARKING, AND § 5.226 FENCE HEIGHT VARIANCES APPROVED WITH SPECIFIC CONDITIONS	ZBA#13-80
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TOWN CLERKS OFFICE
§ 6.36 GRAVEL DRIVEWAY AND PARKING DENIED

2014 JUN 23 PM 2 07

TOWN OF ORANGETOWN

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman 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: Skae Training Center Conditional Use Permit, 337-330 Blaisdell Road, Orangeburg, N.Y. 76.08 / 1 / 3 & 4; 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 10:20 P.M.

Dated: June 4, 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 OF ORANGETOWN
2014 JUN 23 PM 2 07
TOWN CLERKS OFFICE

DECISION

SIDE YARD VARIANCE APPROVED

To: James and Kathy Fulgione
61 Conklin Avenue
Tappan, New York 10983

ZBA # 14-38
Date: June 4, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-38: Application of James and Kathy Fulgione for a variance from Chapter 43(Zoning) of the Orangetown Code, R-15 District, Section 5.21(c) (Side Yard: 15' required, 3' proposed) to install a deck on an existing pool. The premises are located at 61 Conklin Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 24; 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 4, 2014 at which time the Board made the determination hereinafter set forth.

James and Kathy Fulgione appeared and testified.

The following documents were presented:

1. Copy of a survey showing the existing pool and the proposed deck.

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

James Fuglione testified that they would like to add a deck to the left side of the existing above-ground pool; that they have a deck on the right side of the pool and would like to add a four foot deck to the left side of the pool; that the pool is set back far into the rear yard; that the deck will be constructed of the composite decking; and that it will be four feet high to meet the height of the pool; and the existing house has a two or three foot side yard.

Kathy Fuglione testified that the lot is long and narrow; that they have owned the house for 21 ½ years today; that there are no residences by the pool; that the houses on either side of them have similar lots that are long and narrow; that there is a house two house away that has a pool with a deck; that the house across the street has a pool and another house at the end of the block has a pool.

TOWN CLERKS OFFICE
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Sullivan 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 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is long and narrow. The existing house is two or three feet from the side property line.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is long and narrow.
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 side yard variance, although somewhat substantial, affords benefits to the applicant that is not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property is long and narrow.
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

2019 JUN 23 PM 2 07

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 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.

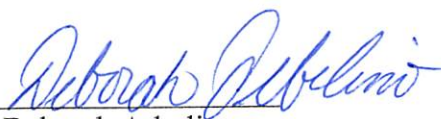
TOWN OF ORANGETOWN
2014 JUN 23 PM 2 07
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, 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: June 4, 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 -M.M.

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

TOWN CLERKS OFFICE
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

DECISION

SIDE YARD VARIANCE APPROVED

To: Robert and Lucille Fair
68 Hoffman Lane
Blauvelt, New York 10913

ZBA # 14-39
Date: June 4, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-39: Application of Robert and Lucille Fair for a variance from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, Group M, Column 9 (Side Yard: 20' required, 13.9' proposed) for installation of an above-ground pool at an existing single-family residence. The premises are located at 68 Hoffman Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.17, Block 3, Lot 36; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 4, 2014 at which time the Board made the determination hereinafter set forth.

Robert Fair appeared and testified.

The following documents were presented:

1. Site plan showing the proposed above ground pool dated 01/11/2014

Mr. Sullivan, Chairman, 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. Castelli, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Robert Fair testified that they have been considering installing an above-ground pool for a while and finally made the decision to do so; that the property is oddly shaped and the house is set back on the lot; that they would like to place the pool in this area because it is the best spot in the yard for it; that it is not that far from the existing deck and there are no trees in that area; that the other side of the yard has two 50 year old trees that would need to be removed to accommodate the pool; that the pool is 52" deep and the deck is 56" high; and they have owned the house for 17 years today.

TOWN CLERKS OFFICE
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is oddly shaped and the area chosen to for the installation of the pool is flat and clear of trees.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is oddly shaped and the area chosen to for the installation of the pool is flat and clear of trees.
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 side yard variance, although somewhat substantial, affords benefits to the applicant that is not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The lot is oddly shaped and the area chosen to for the installation of the pool is flat and clear of trees.
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
2014 JUN 23 PM 2 07
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 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
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, 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: June 4, 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 -M.M.

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

TOWN OF ORANGETOWN
2014 JUN 23 PM 2 07
TOWN CLERKS OFFICE

DECISION

SIDE YARD VARIANCE APPROVED

To: Brian Mills
145 Ablondi Road
Pearl River, New York 10965

ZBA # 14-40
Date: June 4, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-40: Application of Brian Mills for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Column 9 (Side Yard: 20' required, 12' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 145 Ablondi Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.06, Block 1, Lot 54; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 4, 2014 at which time the Board made the determination hereinafter set forth.

Brian Mills appeared and testified.

The following documents were presented:

1. Survey dated 12/01/2006 with the proposed pool drawn on it.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Quinn 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. Castelli, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Brian Mills testified that he would like to install an above ground pool in the rear yard; that the area he has chosen for the installation is flat and sunny with no trees; that the northwest side of the property slopes up; that the west side of the property is wet and wooded; that he has owned his house for 7 ½ years; that he and his wife have two daughters; that the neighbor across the street has a pool and the neighbor to the northwest of him has a pool.

TOWN CLERKS OFFICE
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

Mr. Sullivan 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 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is oddly shaped and the proposed location of the pool works well with the slope of the property and location of trees.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is oddly shaped and the proposed location of the pool works well with the slope of the property and location of trees.
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 side yard variance, although somewhat substantial, affords benefits to the applicant that is 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 OF ORANGETOWN
2014 JUN 23 PM 2 07
TOWN CLERKS OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

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

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

DATED: June 4, 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 OF ORANGETOWN
2014 JUN 23 PM 2 07
TOWN CLERKS OFFICE

DECISION

FLOOR AREA RATIO AND TOTAL SIDE YARD VARIANCES APPROVED

To: David and Kathleen Berge
15 Lark Street
Pearl River, New York 10965

ZBA # 14-41
Date: June 4, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA:14-41: Application of David and Kathleen Berge for variances from Chapter 43 (Zoning) of the Orangetown Code, R-15 District, Group M, Columns 4 (Floor Area ratio: .20 permitted, .21 proposed) and 10 (Total Side Yard: 50' required, 45.7' proposed) for an addition to an existing single-family residence. The premises are located at 15 Lark Street, Pearl River, New York, and identified on the Orangetown Tax Map as Section 69.18, Block 1, Lot 68; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 4, 2014 at which time the Board made the determination hereinafter set forth.

Kathleen and David Berge and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 04/07/2014 signed and sealed by Jane Slavin, Architect. (2 pages)

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

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

Jane Slavin, Architect, testified that they would like to add 14' on the north side of the existing garage to create a two car garage with an expansion of the second floor above it; that they presently have three small bedrooms and would like to expand the upstairs to have three bedrooms that are larger than the existing rooms; that they will be over the permitted floor area ratio by 226 square feet; that the existing garage is 10.8' wide and is not large enough to park a car in and comfortably get in and out of the car; that they would expand the area by fourteen feet and have usable two car garage; that she has picture of the area and this proposal is in keeping with the character of the neighborhood.

Kathleen Berge testified that they have an eighteen year old autistic son that presently occupies the 10' x 10' bedroom; that he refused to change rooms when his sister went away to college; and that they would like to create three larger bedrooms to accommodate the family.

2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

Public Comment:

No public comment.

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

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

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 and total side 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 and total side 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 and total side yard variances, although somewhat substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and total side 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.


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TOWN CLERKS OFFICE

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

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

DATED: June 4, 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 CLERKS OFFICE
2014 JUN 23 PM 2 07
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED (ZONING CODE SECTION 5.21 UNDERSIZED LOT APPLIES)

To: Debbie Maracich
205 Blauvelt Avenue
Pearl River, New York 10965

ZBA # 14-42
Date: June 4, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA:14-42: Application of Debbie Maracich for variances from Chapter 43 (Zoning) of the Orangetown Code, R-15 District, Group M, Columns 4 (Floor Area ratio: .20 permitted, .24 proposed), 9 (Side Yard: 15' required, 6' existing, 10' proposed), 10 (Total Side Yard: 30' required, 15.2' existing), and 12 (Building Height: 20' permitted, 24' 7 1/2" proposed) (Zoning Code Section 5.21 Undersized lot) for an addition to an existing single-family residence. The premises are located at 205 Blauvelt Avenue, Pearl River, New York, and identified on the Orangetown Tax Map as Section 69.17, Block 1, Lot 53; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 4, 2014 at which time the Board made the determination hereinafter set forth.

Debbie Maracich and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 02/25/2014 with the latest revision date of 04/04/ 2014 signed and sealed by Jane Slavin, Architect. (2 pages)
2. Plot plan dated 04/-3/2014 based on survey by Anthony Celentano dated May 5, 2003 signed and sealed by Jane Slavin, Architect.
3. A letter dated May 12, 2014 from Jane Slavin, Architect, to But Von Wurmb, Building Inspector, Town of Orangetown.

Mr. Sullivan, Chairman, 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. Castelli, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Jane Slavin, Architect, testified that they are proposing to a partial second floor to the existing house; that most of the requested variances are for existing conditions; that the lot is undersized and is only 50' wide; that the house will be 1.843 sq. ft. when the addition is complete; that they set in the second floor addition by ten feet to lessen the impact of the existing six foot side yard on the west side of the house; that the east side of the house has an existing 9.2' side yard; that the street is sloped which generates the height variance on the west side; that she will show the shed on the site plan; that the proposed addition is in keeping with the character of the neighborhood and she submitted several pictures.

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Debbie Maracich testified that the work being done presently is remediation of water issues.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, side yard, total side yard and building height variances (§5.21 Undersized lot applies) 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, side yard, total side yard and building height variances (§5.21 Undersized lot applies) 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, side yard, total side yard and building height variances (§5.21 Undersized lot applies) although somewhat substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
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, side yard, total side yard, and building height variances (§ 5.21 undersized lot applies) 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.

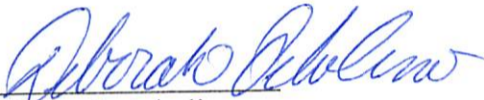
TOWN OF ORANGETOWN
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TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard, and building height variances (§ 5.21 undersized lot applies) was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, 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: June 4, 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
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MINUTES

**LOT AREA, LOT WIDTH, STREET FRONTAGE, SIDE YARD, TOTAL SIDE YARD, REAR YARD, BUILDING HEIGHT, DEVELOPMENT COVERAGE, ACCESSORY STORAGE WITHIN ENCLOSED BUILDINGS, § 3.11, COLUMN 6 OFF-STREET PARKING, AND §5.226 FENCE HEIGHT, VARIANCES APPROVED WITH SPECIFIC CONDITIONS.
§ 6.36 GRAVEL DRIVEWAY AND PARKING AREA DENIED.**

To: Donald Brenner (LSI Services)
4 Independence Avenue
Tappan, New York 10983

ZBA # 13-80
Date: November 6, 2013
April 16, 2014
June 4, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-80: Application of LSI Services Inc. for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, LIO District, CC Group, Columns 5 (Lot Area: 2 acres required, 0.424 provided), 6 (Lot Width: 300; required, 60' provided), 7 (Street Frontage: 150' required, 62' provided), 9 (Side Yard: 100' required, 8' provided), 10 (Total Side Yard: 200' required, 28' provided), 11 (Rear Yard: 100' required, 64' provided) and 12 (Building Height: 2' permitted, 20' proposed) (Development coverage :75% permitted, 80% proposed) ; from Section 6.36: All parking area shall be paved: gravel proposed) Section 3.11, LIO refers to LO district, Column 7 #2 (All accessory storage shall be within completely enclosed buildings) and Parking: 10 spaces required, 5 spaces provided) Section 5.226 Fence Height: 4 ½' permitted in front yard: 6' fence proposed for front yard).The property is located at 336 Blaisdell Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 76.08, Block 1, Lot 1; (hereinafter sometimes referred to as the "Premises") LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, November 6, 2013 and April 16, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Sara Torrens, Attorney, Dardan Bilali and Jay Greenwell, Land Surveyor, appeared and testified over the course of the two meetings.

The following documents were presented:

1. Site plan by Jay A. Greenwell, PLS, and Paul Gdanski, P.E. with the latest revision date of 08/06/2013
2. A letter dated July 10, 2013 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
3. Planning Board Decision #13-12 dated July 10, 2013.
4. A letter dated October 28, 2013 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated November 4, 2013 from the County of Rockland Department of Highways signed by Joseph Arena, Senior Engineering Technician.
6. A letter dated October 7, 2013 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
7. A letter dated April 3, 2014 from H2M Architects + Engineers signed by Bonnie Franson, AICP, PP Department Manager, Land Use/Environmental Planning, in opposition to the LSI and in support of Dobitsch.
8. Seven photographs of views from complaining party property.
9. A letter undated referring to the submission by Bonne Franson dated April 2, 2013 from Dardan Bilali LSI Services (4 pages).
10. A report dated April 2, 2013 prepared by Bonnie Franson AICP, PP with pictures (13 pages).
11. Two portions of tax maps submitted by Mr. Brenner.
12. A packet consisting of letter of transmittal, introduction, procedure, summary, appendix A,B,C,& D, tax map 1967, tax map 2002.

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

At the hearing of November 6, 2013, Donald Brenner, Attorney, testified that this parcel of land was zoned for the use intended in 1965; that it was zoned "LOBX" and the Town Board did not establish a minimum lot size; that taxes have been paid on the lot for the last 45 years with no return to the property owners; that the owner attempted to develop the lot as a parking lot in 2002 for use by the Church but the project never moved forward; that LSI Services is a local company that provides landscaping and grounds services to the residents of the our area; that the Board has on previous occasions granted area variances to similar companies that have found locations in the Town; that the applicant cannot realize a return on the property since 2001; that this use will not alter the character of the neighborhood; that there is a summer camp next to this use; that the building will house the equipment; that the gravel will allow water to return back to the land; that there will be enclosed storage with a bin area; that this is a needed service for the area; that Bob O'Donnell and Mr. Maffeta created this undersized lot when the homes were built in New Jersey; that Old Tappan has a one acre zoning and they created this problem; that this property was dormant before this use; that the applicant is paying rent; that the building could be put on the other side of the lot; that the Building Inspector determines the proper use for the lot; that this applicant must go to the Architectural Review Board after this; that the New Jersey neighbors have an illegal fence in his clients property; that there property does not meet the one acre requirement of Old Tappan because part to their property was purchased from this lot in New York; that the police have never stopped or ticketed his client for entering or existing the property; and that they have offered evergreen screening on the other side of the fence.

Jay Greenwell Land Surveyor, testified that there is an error on the map "Vehicular Storage" must be removed; that there will be no outdoor overnight storage of motorized vehicles; that there will be outdoor bin storage of materials with low landscape; that trailers will be parked outside; that the 16' wide travel way will be used to get into the rear of the property; and that no chemicals or gas will be stored on site.

Public Comment:

Tom Herten, Attorney, representing the Dobitschs' testified that they are property owners in the Town of Orangetown, that they own Lot 76.08/1/2; that this lot abuts the subject property; that the Planning board was insistent that all vehicles be stored inside; that the number of trucks on the site will not fit into the proposed building; that the building does not need to be 20' high; that this is like stuffing ten pounds of material into a bag meant to hold five pounds; that a portion of the property abuts residential property in Orangetown and Old Tappan, New Jersey; that this lot is the wrong place for this use; that Mr. Witte reported the use on the lot in 2011; that this use adversely effects his clients, is a clear overuse of the lot and he requests that the Board deny the requested variances.

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Bonnie Franson, Department Manager ,H2M Planner; testified that she is representing the abutting property owner; that the April 2013 report shows that this requires a use variance; that the construction equipment , landscape business is not permitted in this zone; that in 2011 the Orangetown Code Enforcement Officer Paul Witte said it was not a permitted use in this zone; that contractors storage yards are not allowed in the LI District; that this is a self-created condition and the seven requested variances are substantial; that the new total would be for 13 variances; that it will have an adverse impact on the residential properties in the area; that have a building 20' high located along residential property in Jersey is not in keeping with the character of the neighborhood; that chemicals being stored on the property should be disclosed; that there are no architectural and visual impact should be taken into consideration; that a bonafide office building is different than this proposal; that there should be no outdoor storage.

Cornelia Dobitsch, 2 Lawn Cedar Way, Old Tappan, testified that LSI moved in 2009; that they removed trees bushes and a wooden fence that was there; that ever since they moved in the noise starts early in the morning; that when there is snow they can start as early as 4:30 in the morning; that in the summer they start as early as 7: A.M.; that they stop traffic; that she is not comfortable in her own backyard; that there is no bathroom on the property and she wonders where do they go; that she has been trying to sell her property for seven months and when potential buyers see a landscape business in the backyard they walk away; and that she pays property taxes in New York too; that there are people in and out of the property all day; that many times they are there all day stacking wood; and that they still put stuff up against bobcats.

Phillip Dobitsch, 2 Lawn Cedar Way, Old Tappan, New Jersey, testified that most corporate properties are well take care of; that LSI has caused a loss of privacy for them; that a 20' high building eight feet from the property line is an invasion of his privacy; that if you allow a 20' high building to be constructed eight feet from his property ,you will deplete his property value ; that it should be 80' from his residential property line; that eight feet takes away all of his privacy.

Patrick O'Brien, 662 Pascack Road, Paramus, New Jersey, testified that he has been the Administrator for Old Tappan for 22 years; that Old Tappan has had a good working relationship with Orangetown ; that it is not just the use that is not compatible but it is an over utilization of the property; that he questions how you control the expansion of use by using a building as a buffer; that a single story office would be appropriate for the lot and not so offensive to the houses; that this overutilization does not fit with the zone.

Mike Policastro, 4 Lawn Cedar Way, Old Tappan, New Jersey, testified that he purchased his home 10 years ago; that he uses his yard a lot because of the pool; that he is concerned because of gas and storing pesticides; that he looks out his bedroom window and will see stuff stored 20' high; that he cannot afford to plant large enough trees to provide screening; that he is uncomfortable with all of these variances and that this stops traffic on the main road.

John Plati, 4 Woodcliff Avenue, new Jersey, testified that he owned the lot that Rookies Sport Bar was on that his taxes were \$30,000.00 and the bar was empty for 7 or 8 years; that he looked for relief and could not sell the property.

Mike Policastro, did not give address, stated that LSI has a website with photos and 19 trucks.

Richard LaPlaca, 42 Guterl Terrace, Pearl River, asked how such a large building can be built on the site.

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At the April 16, 2014 meeting Donald Brenner, Attorney, Dardan Bilali, Owner, appeared and testified.

At the April 16, 2014 meeting and 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 for this application and distributed those notices 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 Regulations §617.6 (b) (3); and since the Planning Board conducted SEQRA review on July 10, 2013, rendered environmental determinations of **no** significant adverse environmental impacts to result from the proposed land use actions (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 Regulations §617.6 (b) (3). The motion was seconded by Mr. Quinn and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Quinn, aye, and Mr. Feroldi, aye. Ms. Salomon and Ms. Castelli were absent.

Donald Brenner testified that Mr. Bialia will answer the April 2, 2013 submission by Archer & Greiner and Bonnie Franson; that he would like to give a little history; that on November 6, 2013 LSI appeared before the Zoning Board for variances; that LSI filed an application with the Building Department on December 19, 2012 and appeared before the Planning Board on February 13, 2013; that the Planning Board declared themselves lead agency as related to SEQRA and on July 26, 2013 issued a “Neg. Dec.”; that the complaining parties had ample time to challenge the Board’s decision, as well as the environmental ruling; that the applicant filed the application for the Zoning Board of Appeals on September 26, 2-13; that at the November 6, 2013 meeting the abutting New Jersey neighbors presented their comments and a report prepared by Ms. Bonnie Franson; that the Board should be aware that the developer of the parcel in Old Tappan, with the cooperation of the Borough of Old Tappan created this situation; that the Borough of Old Tappan permitted the developer to sell an undersized lot in the community by “tacking on” real property in New York, which was zoned LIO to the residential property that he was developing in Old Tappan; that with the attachment of this property in New York State, the developer could maximize his profit and at the same time created this lot in New York ; that the developer then sold the property as a lot in March of 2001; that since 2001 the owner of the property has been paying non-homestead taxes ; that the Building Department in the Town of Orangetown determines what can be developed on this parcel of land and what variances are required; that the abutting neighbors had ample time to challenge the decision of the Building Inspector and the Planning board; that the complaining neighbor has installed a fence as well as a shed in violation of the Orangetown Building Code; and the fence was installed on his client’s property in an attempt to deprive his client of his realty.

Dardan Bilali testified that his company provides a necessary service; that he has cleaned up the lot; that the lot was used as a dumping ground before he cleaned it up; that there have been no complaints about him or his business except from this one neighbor; that he has removed trees for his neighbor and welcomed them to the lot to see what he is doing; that the proposed building was placed on the southern side of the lot to block the lot from his neighbors; that there are twenty foot high mature trees in the area and when they are in bloom you cannot even see his lot; that they typically work from 7:30 A.M to 5 or 6 P.M.; that there is little activity on the lot during the day; that the complaining neighbors put a fence and shed on his property, and that he has provided pictures.

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Public comment:

Bonnie Franson, H2M Planner, testified that he client's own property in Orangetown and Old Tappan; that the type of variances being requested by LSI are not just area variances; that a use variance for the landscape contractor's yard and outdoor storage of materials are necessary; that New York State Town Law defines an area variance as the "authorization by the zoning board of appeals for the use of land in a manner which is not allowed by dimensional or physical requirements of the applicable zoning regulations; that the applicant has requested a variance from a provision contained in Column 7, additional use regulations, item 2, "All offices, laboratories, manufacturing of prototype products, accessory storage and all accessory off-street loading berths shall be within completely enclosed buildings"; that allowing outdoor storage is not a variance involving dimensional or quantitative requirement, it involves the use of property in a manner not allowed by the applicable zoning code'; that the applicant should be requesting a use variance for outdoor storage of materials; that this conclusion is reinforced by the heading of column 7 which identifies that the requirements are "Additional Use Regulations"; that outdoor storage of materials is only allowed accessory to and in connection with an existing business as a principal use; that the application of LSI Services, Inc., the applicant is seeking approval to use the site for outdoor storage for a "Business use", when the LUIO District specifically requires that storage of materials be conducted within completely enclosed buildings; that at a minimum, outdoor storage of materials requires a use variance; that the Orangetown Code clearly requires that when a use in the LIO zone adjoins a property in a residential zoning district, a buffer shall be provided; that the required buffer for the LIO zone is 100 feet; that the Zoning Code clearly defines R District as "An R-80, R-40, R-22, R-15 and RG District in the Town or a corresponding district in an adjoining Town or Village, referred to as a "group"; that any development of this site must provide a buffer between the residential property and the nonresidential use; that he site plan is unacceptable; that it has been documented that the operation of this landscape contractor's yard and the maintenance building will be visible from the neighboring residential properties; that the site plan demonstrates that the applicant has not made any attempt to buffer his property and proposed building from the adjoining residential use as required by the Town Zoning Code; that by having a nominal amount of office space in the LSI building, the Code Enforcement Officer had determined that what is in fact a landscape contractor's yard and garage is now a "business/professional office use" thereby allowing LSI Services' operation to fit within the uses permitted by right in the LIO zoning district; that the "Town Code allows business and professional offices as permitted uses within the CS zoning district; that by deeming this a business use the Town is setting precedent of allowing contractor yard in the town's historic and pedestrian oriented downtowns by including a nominal amount of office space on a site; that a twenty foot high building, this close to a residential property without the 100' buffer is a detriment to her clients' property; and a small office building that lessens the impact could be built there.

Phillip Dobitsch, 2 Lone Cedar Way, Old Tappan, New Jersey, testified that he has been assessed since 1999 with \$45,000.00 in property taxes; that LSI was operating illegally for 5 or 6 years; that LSI Landscape services New Jersey customers; that his business does not operate from 7:30 A.M. to 5:00 P.M.; that during a snow storm they could start work in the middle of the night; that he is fighting this because his property will be negatively impacted; that the variances being requested are substantial and to place a 20' high building 8' from his property line is an invasion; that this use is not permitted and the property should be sold to the Church for parking.

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Michael Horn, Attorney, representing the Dobitsch's, testified that in order to make sure that the Town remains the way it is, the Board should not permit the illegal use of this property; that the buffer to residential neighbors is important and the New Jersey neighbors deserve equal protection; that the Board should not set bad precedents; that this property is small and the proposal is too much for this size lot; that this is a misuse of the property; that it is not office space, and that there are snowplows entering and leaving the property in the middle of the night.

Patrick O'Brien, 662 Pascack Road, Paramus, New Jersey, testified that he has been the Administrator for Old Tappan; that Old Tappan wants to be a good neighbor; that the history of the property left out that they granted right to the developer to develop property in New Jersey and this property gave the property access to New York; that they required two emergency accesses; that the owner did not get a windfall; that everyone in Old Tappan is very pleased with the Skae development; that this is not consistent; that the applicant purchased the property and should have known the obstacles; and that a small doctor's office or real estate office would fit on this lot.

Mike Policastro, 4 Lone Cedar Way, Old Tappan, New Jersey, testified that this property backs up to his; that he is concerned about trucks leaking on the stone; that there are rodents on the property; that John Pollatti owns it; that he is concerned about odors from gasoline and mulch; that the appearance of the property is a concern; that if there were a medical emergency on the property it would be difficult to get to; that he has five young children and he worries about toxic waste and pesticides; and asked the Board for help.

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 Mr. Bosco and carried unanimously.

At the meeting of June 4, 2014, the following members were present: Mr. Sullivan, Ms. Salomon, Ms. Castelli, the Chairman Dan Sullivan, who read the following statement into the record:

"The ZBA record reflects that, on April 16, 2014, the ZBA adopted a motion that, since the since the Planning Board noticed its intent to declare itself Lead Agency for this application and distributed those notices 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 Regulation §617.6 (b) (3); and since the Planning Board conducted SEQRA review on July 10, 2013, and rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use actions (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 Chairman asked all the ZBA members present if any of his fellow ZBA members were not in attendance at the November 6, 2013 or the April 16, 2014, Public Hearings for this application, and if so, have those members who were absent had access to, and actual knowledge of, the facts and issues in the case, including their review of the Clerk/Secretary's Minutes of the meetings and all documentary submissions made part of the ZBA record, and have they fully apprised themselves of all aspects of this application?

All members present said they were so fully apprised.

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ISSUE A

If the side and/or rear yards of the Premises abut any lot(s) within an "R District", as contemplated by "Note 2" of the Notes to Use and Bulk Tables of the Orangetown Zoning Code (Chapter 43 of the Code of the Town of Orangetown), then a 100' buffer would be required between the side and/or rear of the Applicant's proposed building(s) and the abutting lot(s) located within such an "R District", which 100' foot buffer would be in addition to the 100' side and/or rear yard setback(s), thus totaling 200' between the proposed building(s) and the abutting lot(s) located within an "R District", i.e., a 100' yard setback plus a 100' buffer. If the Premises do not abut any lot(s) located within such an "R District", then the 100' buffer is not applicable, and the Applicant would only be required to adhere to the 100' minimum rear and side yard setbacks, or obtain variances for same.

FINDING OF FACT #A (1):

Do the Premises adjoin any "R" District located in the Town of Orangetown?

Answer: No Motion by Dan Sullivan, seconded by Tom Quinn and carried unanimously.

FINDING OF FACT #A (2):

Is the objecting neighbors' Philip and Cornelia Dobitsch's abutting New York lot (Orangetown Tax Map #76.08/1/2) sited within an "R District" located in the Town of Orangetown?

Answer: No Motion by Dan Sullivan, Seconded by Joan Salomon and carried unanimously.

FINDING OF FACT #A (3):

Which Orangetown Zoning District is the Dobitsches' New York lot located within?

Answer: LIO Motion by Dan Sullivan, seconded by Tom Quinn and carried unanimously.

CONCLUSION OF LAW #A (1)

Do the New Jersey objectors reside in an "R District" as contemplated by Note "2" of the Notes to Use and Bulk Tables of the Orangetown Zoning Code?

Answer: No Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that the Orangetown Zoning Code regulates properties within it's geographic border and therefore, the New Jersey objectors do not reside in an "R District" as defined by the Orangetown Town Code; Motion by Dan Sullivan, seconded by Joan Salomon and carried unanimously.

CONCLUSION OF LAW # A (2)

Do the New Jersey objectors have standing before the Zoning Board of Appeals pursuant to NYS General Municipal Law § 239-nn?

Answer: No Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that the law specifically identifies and stipulates that residents of the State of New York of adjacent municipalities may simply be "heard" and the State of New Jersey is outside of the State of New York; Motion by Dan Sullivan, seconded by Joan Salomon and carried unanimously.

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CONCLUSION OF LAW # A (3)

Do the New Jersey objectors have standing before the ZBA, pursuant to the Orangetown Zoning Code?

Answer: No Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that NYS General Municipal Law § 239 refers to municipalities and persons in New York State and, therefore, does not grant any standing to the New Jersey objectors, and even the purported standing of the Borough of Old Tappan, New Jersey, must fail, since it is not a New York State municipality: Motion by Dan Sullivan, seconded by Joan Salomon and carried unanimously.

CONCLUSION OF LAW # A (4)

Do the New Jersey objectors reside within the “zone of interest” protected by Orangetown’s Zoning Regulations, thereby affording them “Aggrieved” persons status entitling them to seek the ZBA’s reversal or modification of the Director of OBZPAE, John Giardiello, P.E.’s determinations, decisions and/or interpretations, etc., regarding this application?

Answer: No Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that the “zone of interest” protected by Orangetown’s Zoning Code is the Town of Orangetown, and our land use regulations have no power or authority beyond Orangetown’s geographic border and, therefore, the New Jersey objectors, not residing within the “zone of interest” protected by Orangetown’s zoning regulations, are not aggrieved persons entitled, and lack standing, to appeal an “order, requirement, decisions, interpretation or determination” of the Building Inspector, which “appeal” would include their seeking the ZBA’s reversal or modification of Mr. Giardiello’s determinations, decisions and/or interpretation, etc., regarding this application: Motion by Dan Sullivan, seconded by Joan Salomon, and carried unanimously.

ISSUE B

The Director of OBZPAE, John Giardiello, P.E., has determined, decided and/or interpreted that the Applicant’s proposed business use, with accessory outdoor storage, requires area/bulk variances only, and not a use variance. The objecting neighbors-including the Dobitsches, who own a neighboring lot located in the LIO Zone in Orangetown- contend that (i) the proscription in Orangetown Zoning Code §3.11, Column 7, item #2, mandating that “accessory storage...shall be within completely enclosed buildings” is within the Table of General Use Regulations (“Use Table”); and (ii) the Applicant is not a Business/Professional Office, but, rather , a Contractor’s Storage Yard, the latter which is a permissible use in the LI Zoning District, but not in LIO; therefore, the objecting neighbors are requesting that the ZBA reverse Mr. Giardiello’s said determination, decision and/or interpretation and find instead, that the Application requires a use variance (in addition to area/bulk variances).

CONCLUSION OF LAW # B (1)

Does the fact, alone, that column 7, item #2 (Accessory Storage), is within the Use Table determine that the Applicant’s outdoor storage variance is a use variance, rather than an area/bulk variance?

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Answer: No Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that Zoning Code Column 7 of the LIO District's Use Table includes several regulations that, if varied from, then the ZBA would be authorizing "the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulation", which is the definition of an Area Variance, as per NYS Town Law § 267 (1)(b); e.g., 'any board having jurisdiction may require adequate fences and other safety devices and adequate landscaping and screening" (LIO Use Table, Column 7, item #1 [refers to R-80 item #2]); Motion by Dan Sullivan, seconded by Tom Quinn and carried unanimously.

CONCLUSION OF LAW # B (2)

Does the application require a use variance of only area/bulk variances?

Answer: Area variances, per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that the use is for a Contractor's Office, which is interpreted as a "Business/Professional Office". Any ambiguity of this term or words must be strictly construed against the municipality (the Town of Orangetown) and in favor of the property owner/applicant. Motion by Dan Sullivan, seconded by Tom Quinn and carried unanimously.

ISSUE C

The Applicant's Application for Building / Demolition Permit describes its proposed use as a "Landscaping Building" and its Application Review Form-Part I states that the proposal is for an "Irrigation System Business", and the Applicant's SEQRA Short Environmental Assessment Form designates its use a "Landscaping Business". Mr. Giardiello, in his 7/10/2013 report to Cheryl Coopersmith, Chief Clerk, OBZPAE, has determined, decided and/or interpreted that the Applicant's proposal is a "business use with an office and storage", i.e., a Business/Professional Office, which is a Use Permitted by Right in the LIO Zoning District, as per LIO Use Table, Column 2, item #1 (refers to LO [item #4]). The objecting neighbors-including the Dobitsches, who own a neighboring lot located in the LIO Zone in Orangetown-contend that the Application is not for a permissible Business/Professional Office, but rather, a Contractor's Storage Yard, the latter which is not a permissible use in LIO.

FINDING OF FACT # C (1):

Does the Orangetown Zoning Code define any of the terms, "Business", "Professional", or "Office"?

Answer: No Motion by Dan Sullivan, seconded by Joan Salomon and carried unanimously.

FINDING OF FACT # C (2):

Does the Orangetown Zoning Code § 11.2 Definition of "Home Occupation" state, in the definition, "A profession or other occupation...(which) includes, but is not limited to (a) contractor's office ...?"

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Answer: Yes Motion by Dan Sullivan, seconded by Joan Salomon and carried unanimously.

FINDING OF FACT # C (3):

Are the words, or the phrase, “Business/Professional Office,” as stated in the Use Table for the LIO Zoning District (Column 2, Item #1) ambiguous?

Answer: Yes Motion by Dan Sullivan, seconded by Patricia Castelli, and carried unanimously.

CONCLUSION OF LAW #C (4):

Does a landscape contractor qualify as a “Business” or “Office”?

Answer: Yes Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that the use is for a Contractor’s Office, which is interpreted as a “Business/Professional Office”. Any ambiguity of this term or words in the Orangetown Zoning Code must be strictly construed against the municipality(Town of Orangetown) and in favor of the property owner/ applicant.
Motion by Dan Sullivan, seconded by Tom Quinn and carried unanimously.

CONCLUSION OF LAW #C (5):

Is the applicant’s proposed use of the premises a permissible “Business/Professional Office” with accessory storage of goods and equipment, or an impermissible “Contractor’s Storage Yard”?

Answer: A permissible “Business/Professional Office: with accessory storage of goods and equipment Per the review, interpretation and opinion of Dennis Michaels, Deputy Town Attorney, as set forth in his email memo to the ZBA of 4/16/ 2014, the ZBA agrees with his position that the use is for a Contractor’s Office, which is interpreted as a “Business/Professional Office”. Any ambiguity of this term or word in the Orangetown Town Code must be strictly construed against the municipality(Town of Orangetown) and in favor of the property owner/ applicant.
Motion by Dan Sullivan, seconded by Tom Quinn and carried unanimously.

ISSUE D

The objecting neighbors- including the Dobitsches, who own a neighboring lot located in the LIO Zone in Orangetown- contend that the Applicant’s proposed use of the Premises is subject to Orangetown Zoning Code §4.1 (Performance Standards) requiring the ZBA’s approval of same, and are seeking the ZBA’s reversal of Mr. Giardiello’s determination, decision and/or interpretation that the Application is not subject to Performance Standards review.

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FINDING OF FACT #D (1):

Did the Orangetown Planning Board's SEQRA Neg Dec of July 10, 2013, determine that the applicant's proposed land use action will not have a significant adverse impact on the environment, including no potential for adverse impacts to air quality, surface or ground water quality, noise levels, existing external traffic patterns, aesthetic resources of the neighborhood, vegetation, fauna or wildlife, and no adverse impacts to the Town's residences?

Answer: Yes Motion by Dan Sullivan, seconded by Joan Salomon and carried unanimously.

CONCLUSION OF LAW #D (1):

Is the applicant's proposed use of the premises subject to Orangetown Zoning Code § 4.1 (Performance Standards) requiring the ZBA's approval of same?

Answer: Yes, since the issue was brought up during the Public Hearing and the building will be non-residential, the ZBA will request the Building Department to review this application in regard to Performance Standards, and the ZBA suggests that it conform to the Performance Standards: Motion by Dan Sullivan, seconded by Tom Quinn, and carried as follows: Ms. Castelli, aye, Ms. Salomon, nay; Mr. Feroldi, aye; Mr. Quinn, Aye; and Mr. Sullivan, aye.

ISSUE E

The Applicant is requesting approval/grant of the following area/bulk variances from Orangetown Zoning Code § 3.12 ("Bulk Table"), LIO District, CC Group:

1. Column 5 (Lot Area: 2 acres required, 0.424 provided)
2. Column 6 (Lot Width: 300' required, 60' provided)
3. Column 7 (Street Frontage: 150' required, 62' provided)
4. Column 9 (Side Yard: 100' required, 8' provided)
5. Column 10 (Total Side Yard: 200' required, 28' provided)
6. Column 11 (Rear Yard: 100' required, 64' provided)
7. Column 12 (Building Height: 2' permitted, 20' proposed)

And from the following provisions of the Orangetown Zoning Code:

8. Notes to Use and Bulk Tables, Note 14-Development Coverage; maximum of 75% is allowed, 80% is proposed.
9. Section 6.36- All parking areas shall be paved, and gravel is proposed.
10. Section 3.11, LIO District (refers to LO Zoning District), Column 7, #2-All accessory storage shall be within completely enclosed buildings.
11. Use Table, Column 6- Off-Street Parking; minimum of 10 spaces required, 5 spaces provided.
- 12 Section 5.226-Fence Height: maximum of 4 ½' allowed in front yard, 6' is proposed.

FINDING OF FACT #E (1):

Will an undesirable change be produced in the character of the neighborhood or a detriment to nearby properties be created by the granting of the area/bulk variances?

Answer: No Currently, the property is unimproved. By erecting a building the empty lot will be more presentable and increase the values of the adjacent Orangetown properties; Motion by Dan Sullivan, seconded by Tom Quinn, and carried as follows: Leonard Feroldi, aye; Patricia Castelli, nay; Joan Salomon, nay; Tom Quinn, aye; and Dan

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FINDING OF FACT #E (2):

Can the benefit sought by the Applicant be achieved by some method, feasible for the Applicant to pursue, other than by obtaining area/bulk variances?

Answer: No The limitations of the LIO Zone and the size of the property would require variances regardless of what is built there: Motion by Dan Sullivan, seconded by Tom Quinn, and carried as follows: Leonard Feroldi, aye; Tom Quinn, aye; Joan Salomon, nay; Patricia Castelli, nay; and Dan Sullivan, aye.

FINDING OF FACT #E (3):

Are the requested area/bulk variances substantial?

Answer: Yes, but the hardship lays on the size of the lot and the setbacks and restrictions in the LIO Zone where the property is located: Motion by Dan Sullivan, seconded by Tom Quinn and carried as follows: Leonard Feroldi, aye; Tom Quinn, aye; Joan Salomon, nay; Patricia Castelli, nay; and Dan Sullivan, aye.

FINDING OF FACT #E (4):

Will the proposed area/bulk variances have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district?

Answer: No The Applicant is improving the lot which will allow them to maintain it better. The traffic concern would not be any different if any other type of Business/Professional Office were erected. The building height is not different from that of a typical house and would be required for any other Business/Professional Office. The accessory storage will be organic landscaping which is not different from what currently exists at the site- trees, leaves, mulch. All fertilizer and fuel will be stored inside and in accordance with the applicable Codes. Motion by Dan Sullivan, seconded by Tom Quinn and carried and follows: Leonard Feroldi, aye; Tom Quinn, aye; Joan Salomon, nay; Patricia Castelli, nay; and Dan Sullivan, aye.

FINDING OF FACT #E (5):

Is the Applicant's alleged difficulty self-created, and if so, does it preclude the granting of the area/bulk variances?

Answer: Yes, it is self-created, however this does not preclude the granting of the Area/Bulk variances, since many of the variances are due to the location of the lot in the LIO zone and the unusually small size of this lot: Motion by Dan Sullivan, seconded by Tom Quinn and carried as follows: Leonard Feroldi, aye; Tom Quinn, aye; Joan Salomon, nay; Patricia Castelli, nay; and Dan Sullivan, aye.

FINDING OF FACT #E (6):

Are the Area/Bulk variances the minimum variances that the ZBA deems necessary and adequate to achieve the Applicant's benefits, and, at the same time, to preserve and protect the character of the neighborhood and the health, safety and welfare of the community?

Answer: Yes The Applicant presented a case that the size of the building is necessary to store trucks while maintaining an office as well, and any other use would require

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similar variances due to the small size of the lot. Again, any other Business/Professional Office would require similar variances: Motion by Dan Sullivan, seconded by Tom Quinn, and carried as follows: Leonard Feroldi, aye; Tom Quinn, aye; Joan Salomon, nay; Patricia Castelli, nay; and Dan Sullivan, aye.

CONCLUSION OF LAW:

The ZBA has taken into consideration the benefit to the Applicant if the area/bulk variances are granted, and weighed the benefit against the detriment, if any, to the health, safety and welfare of the neighborhood or community by such grant; and hereby Resolves to by motion of Chairman Sullivan, to Grant/ Approve all of the requested variances (except for the gravel driveway) with the following conditions:

- 1) Flip the design to locate the building on the north side of the property per the neighbors' request;
- 2) Any fertilizer, fuel or non-organic materials must be stored inside the building in accordance with all applicable codes;
- 3) A 6' privacy fence around the entire property shall be installed to prevent seeing the contents of the property from the neighboring properties;
- 4) ACABOR approval required to ensure adequate vegetative screening;
- 5) Any external storage of organic materials, that will used in the short term for projects (such as soil, plants etc.) must not stand taller or pile higher than 5' in height, to prevent viewing this from neighboring properties; and
- 6) John Giardiello, P.E., Director of OBZPAE, is requested by the ZBA to review the application to determine if it's subject to Performance Standard review (and the ZBA suggests that it is so subject);

And to

- 7) Deny the gravel driveway; it should be paved to ensure proper curbs and drainage of the lot;

Which motion was seconded by Mr. Quinn and carried as follows: Leonard Feroldi, aye; Tom Quinn, aye; Joan Salomon, nay; Patricia Castelli, nay; and Dan Sullivan, aye.

General Conditions:

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

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

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


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

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

The 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 4, 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 -N.A.

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

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