

MINUTES  
ZONING BOARD OF APPEALS  
JUNE 5, 2013

MEMBERS PRESENT:

DANIEL SULLIVAN, CHAIRMAN  
JOAN SALOMON  
NANETTE ALBANESE  
PATRICIA CASTELLI  
LEONARD FEROLDI, ALTERNATE

ABSENT:

MICHAEL BOSCO

ALSO PRESENT:

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

This meeting was called to order at 7:00 P.M. by Mr. Sullivan, Chairman.

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

<u>APPLICANTS</u>	<u>PUBLISHED ITEMS</u>	
	<u>DECISIONS</u>	

POSTPONED ITEM:

TONKOSCHKER  
77.08 / 2 / 30; RG zone

CONTINUED          ZBA#13-28

NEW ITEMS:

DESCHERER  
68.12 / 1 / 38; RG zone

FLOOR AREA RATIO, FRONT YARD,      ZBA#13-36  
SIDE YARD, TOTAL SIDE YARD,  
BUILDING HEIGHT, § 5.227 VARIANCES  
APPROVED

WALTHER SUBDIVISION      LOT WIDTH, FOR LOT #1 & 2,      ZBA#13-37  
78.17 / 2 / 20; R-40 zone      FRONT YARD, SIDE YARD, TOTAL  
SIDE YARD AND BUILDING HEIGHT

FOR LOT #1; STREET FRONTAGE FOR LOT #2;  
AND § 6.332 GRAVEL DRIVEWAY VARIANCES  
APPROVED

CAMPANELLI  
71.09 / 1 / 4; R-22 zone

§3.11, R-80 DUSTRICT, COLUMN 2 #7      ZBA#13-38  
LOCAL LAW #7 VARIANCE APPROVED  
APPROVED

BEITAL'S AQUARIUM  
68.19 / 4 / 16; CO zone

§3.11, CO DISTRICT, COLUMN 5 #6,      ZBA#13-39  
AND § 4.22 (c) & (e)  
VARIANCES APPROVED AS MODIFIED

ALL COUNTY PROPERTIES  
74.07 / 1 / 29; LI zone

LOT AREA, STREET FRONTAGE, ZBA#13-40  
SIDE YARD. FRONT YARD, BUILDING  
HEIGHT, § 6.36 GRAVEL PARKING, § 3.11,  
LI DISTRICT, COLUMN 2 (CARETAKER  
RESIDENCE) AND COLUMN 7 #5 (OUTDOOR  
STORAGE) APPROVED

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ARRIFLEX INC. §3.11, COLUMN 5, #11 ZBA#13-41  
65.19 / 1 / 1; R-40 & LO zone SIGN SIZE VARIANCE APPROVED

ORGANIC RECYCLING § 3.11, COLUMN 7 #5 (OUTDOOR ZBA#13-42  
74.19 / 1 / 3; LI zone STORAGE) AND § 6.36 (GRAVEL PARKING)  
VARIANCES APPROVED

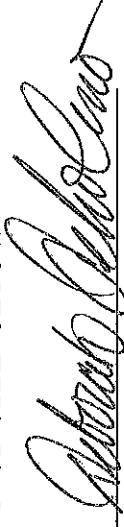
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 11:10 P.M.

Dated: JUNE 5, 2013

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

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TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD,  
BUILDING HEIGHT, AND ACCESSORY STRUCTURE SETBACK  
VARIANCES APPROVED**

To: William Bosley  
10 Sugarhill Road  
Nyack, New York 10960

ZBA # 13-36  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-36: Application of Richard Descherer for variances from Chapter 43 (Zoning) Town of Orangetown, R-22 District, Group I, Columns 4 (Floor Area Ratio: .20 permitted, .47 proposed), 8 (Front Yard: 40' required, 27.86' existing, 27.36' proposed), 9 (Side Yard: 25' required, 15' & 20.25' existing), 10 (Total Side Yard: 60' required, 35.25' existing) and 12 (Building Height: 20.9' permitted on north side, 24.58' proposed; 11.25' permitted on east side, 27.98' proposed; 15.19' permitted on west side, 27.98 proposed) and from Section 5.227 (Accessory Structure: 5' from property required, 4.29 existing) for an existing house to be raised out of flood zone and for an existing pool house at an existing single-family residence. The premises are located at 1 Washington Spring Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.19, Block 1, Lot 5; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

William Bosley, contractor, Richard and Jennie Descherer, Gregory Biesiadecki, P.E., John Murray, Architect, and Matt Warner, Architect, appeared and testified.

The following documents were presented:

1. Site Modification Plot boundary & Topographic survey dated 01/27/2013 with the latest revision date of 04/25/2013 signed and sealed by Steven J. Collazuol, P.E..
2. Architectural plans dated 04/12/2013 with the latest revision date of 04/25/2013 signed and sealed by John Burnside Murray, Architect.
3. A cover letter dated May 16, 2013 from Richard and Jennie DeScherer (2 pages).
4. A memorandum dated April 30, 2013 from Langan Engineering Environmental, Surveying and Landscape Architecture, D.P.C. (4 pages).

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (120 and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Albanese, ayc; Ms. Salomon, aye; Mr. Feroldi, ayc; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

John Murray, Architect testified that super storm sandy caused the Hudson River to rise 8 ½ feet above sea level; that the entire first floor of the house was under water; that all of the furniture, pictures, walls were destroyed; that they hired Mr. Bosley to dry everything out but they do not want to live through this again; that they decided to come up with a comprehensive plan to avoid this in the future; that they were waiting for months for FEMA to set the flood plain levels but they still have not done so for this area; that they

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have checked with other areas in New Jersey and have come to the conclusion that if the house is raised 15.10' above sea level they should meet the flood requirements for insurance and avoid this problem from occurring again; that they have contacted expert house movers that can lift the house and place it on piers and then they will construct break away walls to match the house that would fall away in case of another extreme storm; that the area below the house would be considered part of the floor area ratio for the house and there would be a bathroom built in this section of the house that would be used in conjunction with the pool; that any items stored in the area would be items that would not get ruined by water, such as outdoor furniture; and that this is not a self created hardship.

Bill Bosley, contractor, testified that the shed is existing and that they are legitimizing it while they are before the Board; that the studio structure will also be lifted and steel will be put beneath it; that the existing stone wall may have to be built out 6' further encroaching into the front yard.

Richard Descherer testified that they own the property behind this house and to the side where the shed is located; that they love this house and wants to raise it and keep the integrity of the house at the same time; and that they do not want to have to go through another storm like this one.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard, side yard, total side yard, building height and accessory structure setback variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The floor area ratio is being increased because of raising the house to place it on piers (which results in non floor area cellar space becoming floor area included in the F.A.R. calculation) and enclosing the piers to keep the integrity of the house; however the new enclosed portion of the house will be used for storage of materials that will not be ruined if another storm surge occurs. The height variance is necessary to lift the house out of the flood plain and to make it an insurable property. The front yard is being changed slightly to accommodate the lifting of the stone structure and the side yard, total side yard and accessory structure variances are being granted.

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2. The requested floor area ratio, front yard, side yard, total side yard, building height and accessory structure setback variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The floor area ratio is being increased because of raising the house to place it on piers (which results in non floor area cellar space becoming floor area included in the F.A.R. calculation) and enclosing the piers to keep the integrity of the house; however the new enclosed portion of the house will be used for storage of materials that will not be ruined if another storm surge occurs. The height variance is necessary to lift the house out of the flood plain and to make it an insurable property. The front yard is being changed slightly to accommodate the lifting of the stone structure and the side yard, total side yard and accessory structure variances are not changing.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard, side yard, total side yard, building height and accessory structure setback variances, although substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The floor area ratio is being increased because of raising the house to place it on piers (which results in non floor area cellar space becoming floor area included in the F.A.R. calculation) and enclosing the piers to keep the integrity of the house; however the new enclosed portion of the house will be used for storage of materials that will not be ruined if another storm surge occurs. The height variance is necessary to lift the house out of the flood plain and to make it an insurable property. The front yard is being changed slightly to accommodate the lifting of the stone structure and the side yard, total side yard and accessory structure variances are not changing.

5. The applicant is proposing to lift the house out of the flood plain after damage from Super Storm Sandy, which the applicant had no control of, and is complying with Federal Flood Insurance regulations and/or guidelines; and this difficulty was **not** self-created.

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DECISION: In view of the foregoing and the testimony and documents presented to the Board: RESOLVED, that the application for the requested floor area ratio, front yard, side yard, total side yard, building height and accessory structure setback 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.

Descherer  
ZBA#13-36  
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(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.

The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard, total side yard, building height, and accessory structure setback variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR - B.vw.

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

DECISION

**LOT WIDTH FOR LOT #1 & #2, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, BUILDING HEIGHT FOR LOT #1, STREET FRONTAGE FOR LOT #2, AND SECTION 6.332 FOR LOT #1 & #2 VARIANCES APPROVED**

To: Donald Brenner (Walther Subdivision)  
4 Independence Avenue  
Tappan, New York 10983

ZBA # 13-37  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-37: Application of Walther Subdivision for variances from Chapter 43 (Zoning), Section 3.12, R-40 District, Group E, Columns 6 (Lot width for lot #1 & 2: 150' required, 135' existing), 8 (Front Yard: 50' required, 39.2' existing for lot #1), 9 (Side Yard: 30' required, 8.5' existing for lot #1) 10 (Total Side Yard: 80' required, 52.9' existing for lot #1) and 12 (Building Height: 5.7' permitted, 15.3' existing for lot #1) and from Column 7 (Street Frontage for lot #2 110' required, 20.17' proposed); also a variance from Section 6.332 for lots #1 & #2 ( Asphalt driveways required, gravel existing for lot #1 and proposed for lot #2) for a two lot subdivision located at 694 Oak Tree Road, Palisades, New York and identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 20; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

Bill and Sue Walthers, Donald Brenner, Attorney, and Jay Greenwell, L.S., appeared and testified.

The following documents were presented:

1. Subdivision of Property for Walther dated 12/21/2012 with the latest revision date of 01/23/2013 signed and sealed by Jay Greenwell, L.S..
2. A six page packet labeled "Proposal for Flag Lot Subdivision of 694 Oak Tree Road, Palisades" submitted by Sue and Bill Walther.
3. A letter dated May 6, 2013 from the County of Rockland Department of Planning signed by Thomas Vandebeek, P.E., Commissioner of Planning.
4. A letter dated June 3, 2013 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A letter dated may 7, 2013 from the State of New York Department of Transportation, signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

Mr. Sullivan, Chair, made a motion to open the Public Hearing which motion was seconded by Ms. 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 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 March 27, 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 Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Castelli, aye; Mr. Feroldi, aye; and Ms. Albanese, aye. Mr. Bosco was absent.

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Bill Walthers testified that he and his family have lived in at 694 Oak Tree Road for thirty years; that there property is located on the north side of the road, contiguous to property owned by South Orangetown School District to the west and north; that it abuts two residential properties on the east; that the one in the front is used to operate the Palisades Country Store and across the street are the Palisades Library and a residential property; that the home is circa 1780 with four bedrooms; that as they grow older and nearing retirement, they realize that the property will inevitably become a financial burden; that there son Christopher and his wife Hannah have suggested a plan that would enable them to raise their family in Palisades and allow us to be very close by; that they are proposing to subdivide the property to accomplish both goals; that the proposed subdivision would create two lots on the existing 67,010 sq. ft. parcel; the result is a flag lot with a gross area of 43,951 sq. ft. at the rear of the property and a 22,503 sq. ft. lot at the front; that access to the new lot would be accomplished through an extension of the present driveway, maintaining the existing curb cut on Oak Tree Road; that the majority of the properties in this area of oak Tree Road and Closter Road were built on lots originally conforming to R-22 zoning; that in the 1990's the zoning overlay was changed to R-40; that of the 42 existing lots surveyed, 31 are less, and in some cases substantially less, than the R-40 zoning requirements; that only one home in four (11 of 42) is on a lot that falls within the R-40 zoning parameters; that our existing house, like the majority of the smaller lot homes mentioned before, was built in close proximity to the road; that it can fit comfortably on a lot significantly smaller than it does today with no impact on the existing streetscape or character of Oak Tree Road; that the proposed new house will be set back on the larger lot in a manner consistent with the R-40 zoned homes and will be well screened form the road; and the new structure will be modest and its design and construction will conform with the Historic District.

Donald Brenner, Attorney, testified that the charts that Bill submitted show that the plan does fit into the area well; and that the applicant received a preliminary approval and a neg dec from the Planning Board.

Jay Greenwell, L.S., testified that the gross are of the rear lot is 43,900 sq. ft. and that over the years the school filled their property and trapped water in this rear yard which reduces the gross area calculated for building; and that the shared driveway provides street frontage for the rear lot.

Public Comment:

Dale Prusinowski, 11 Closter Road, Palisades, testified that he has lived in Palisades since 1981 and was attracted to the area because of the way it looks; that he is afraid of creating undersized lots with set a precedent.

Larry Bucciarelli, 700 Oak Tree Road, Palisades, testified that he has the immediate neighbor to Bill and Sue for thirty years; that he has been invited to participate in the subdivision process; that part of him agrees with Mr. Prusinowski; but he understands the needs of the Walthers; that he would request that the evergreen screening between this property and Bill's be made a part of any decision rendered.

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

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

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

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**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing 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 lot width for lots #1 & #2, front yard, side yard, total side yard and building height for lot #1, and Section 6.332 (gravel driveway for lot lots #1 & #2) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot width is an existing condition; the front yard, side yard, total side yard, building height and gravel driveway already exist for lot #1. The gravel driveway and street frontage for proposed lot #2 are new variances requested for the proposed two-lot subdivision.
2. The requested lot width for lots #1 & #2, front yard, side yard, total side yard and building height for lot #1, and Section 6.332 (gravel driveway for lot lots #1 & #2) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot width is an existing condition; the front yard, side yard, total side yard, building height and gravel driveway already exist for lot #1. The gravel driveway and street frontage for proposed lot #2 are new variances requested for the proposed two-lot subdivision.
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 lot width for lots #1 & #2, front yard, side yard, total side yard and building height for lot #1, and Section 6.332 (gravel driveway for lot lots #1 & #2) 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 lot width is an existing condition; the front yard, side yard, total side yard, building height and gravel driveway already exist for lot #1. The gravel driveway and street frontage for proposed lot #2 are new variances requested for the proposed two-lot subdivision.
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 lot width for lots #1 & #2, front yard, side yard, total side yard and building height for lot #1, and Section 6.332 (gravel driveway for lot lots #1 & #2) 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.

**TOWN CLERKS OFFICE**

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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 lot width for lots #1 & #2, front yard, side yard, total side yard and building height for lot #1, and Section 6.332 (gravel driveway for lot lots #1 & #2) variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By:   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

**SECTION 3.11, R-80 DISTRICT, COLUMN 2, #7 & SECTION 4.5 (SINGLE-FAMILY CONVERSION) APPROVED**

To: Veronica Campanelli  
1095 Route 9W  
Upper Grandview, New York

ZBA # 13-38  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-38: Application of Veronica Campanelli for a variances from Chapter 43 (Zoning) Town of Orangetown, Section 3.11, R-22 District, refers to Section 3.11, R-80, Column 2 #7 (600 sq. ft. permitted, 738.5 sq. ft. existing) for an existing apartment at an existing owner occupied two-family residence (Local Law #7 Section 4.5). The premises are located at 1095 Route 9W, Upper Grandview, New York and are identified on the Orangetown Tax Map as Section 71.09, Block 1, Lot 4; R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

Veronica Campanelli appeared and testified.

The following documents were presented:

1. Drawing of the existing apartment.
2. A Certificate of Occupancy for a restricted two family dwelling (local Law #7) dated 11/10/1986 with a restrictive covenant.
3. A Certificate of Occupancy for renewal of restricted two family Local Law #7 1981 Owner Occupied Dwelling, dated 03/20. 2002 with a restrictive covenant.
4. A restrictive covenant dated August 11, 2006 filed by Veronica Campanelli for 1095 Route 9W, Upper Grandview.

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

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

Veronica Campanelli testified that she purchased the house on July 28, 2006 and filed a covenant to continue Local Law #7 on August 11, 2006; that two previous owners of the house were able to continue the Local Law #7; that she has been denied and sent to this Board because when the building Inspector came out to inspect the house, he measured the existing apartment and found that it is 738.5 sq. ft.; that the maximum size of the dwelling is 600 sq. ft.; that she did not change anything in the house, that the apartment was built over sized and it was not noticed previously; that she would like to get a certificate of occupancy for the apartment because it would be nice to be able to rent it and supplement her monthly payments.

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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. Salomon and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested Section 3.11, R-80 District, Column 2, (Local Law #7 §4.5) variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The apartment has existed since 1986 at its present size without incident.
2. The requested Section 3.11, R-80 District, Column 2, (Local Law #7 §4.5) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The apartment has existed since 1986 at its present size without incident.
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 Section 3.11, R-80 District, Column 2, (Local Law #7 §4.5) variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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**TOWN OF ORANGETOWN**

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested Section 3.11, R-80 District, Column 2, (Local Law #7&4.5) 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.

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The foregoing resolution to approve the application for the requested Section 3.11, R-80 District, Column 2, (Local Law #7§4.5) variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OEZPAE  
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

2013 JUN 27 AM 9 13

TOWN OF ORANGETOWN

DECISION

**SECTION 3.11, CO DISTRICT, COLUMN 5 #6 AND SECTION 4.22 (c) & (e)  
APPROVED AS MODIFIED**

To: Signarama (Beital's Aquariums)  
27 North Middletown Road  
Nanuet, New York 10954

ZBA # 13-39  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-39: Application of Beital's Aquariums for variances from Chapter 43 (Zoning) Section 3.11, CO District, Column 5 #6 ( 12 sq. ft. non-illuminated sign permitted; 109.33 sq. ft. illuminated sign proposed) and from Section 4.22 (c) light interferes with, competes for attention with or may be mistaken for a traffic signal and (e) light visible through a transparent panel; for proposed signs on a building at 73 Route 304, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.19, Block 4, Lot 16; CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

appeared and testified.

The following documents were presented:

1. Site plan dated 02/14/2013 by Jay Greenwell, L.S.
2. Four pages of the proposed signs and the placement of those signs on the building.
3. Three pages of pictures of other signs in the immediate area.
4. A letter dated June 3, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.
5. A letter dated May 21, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.

Mr. Sullivan, Chair, 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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

George Hanken, Signarama, testified that the proposed for Beital's are very similar to those that were presented for Arriflex; that they are metal acrylic letters that are lit from the front; that he took pictures of other signs in the area and would like to submit them; that the KFC has signs on all sides of their building; that USIS and Vision Sports Club signs are close by; that the sign on the building is far enough away from the traffic signal that will not cause any confusion; and that the sign on the side of the building could be reduced from 17 ½" to 15' letters.

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Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested Section 3.11. CO District, Column 5, #6 and Section 4.22 (c) & (e) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The letter dated June 3, 2013 from the State of New York Department of transportation states that the proposed variance would have no significant impact on the state transportation system; clearly eliminating the concern that the sign could interfere with the traffic signal. The applicant has agreed to reduce the sign on the south side of the building from 17 ½" letters to 15" letters.
2. The requested Section 3.11, CO District, Column 5, #6 and Section 4.22 (c) & (e) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The letter dated June 3, 2013 from the State of New York Department of transportation states that the proposed variance would have no significant impact on the state transportation system; clearly eliminating the concern that the sign could interfere with the traffic signal. The applicant has agreed to reduce the sign on the south side of the building from 17 ½" letters to 15" letters.
3. The Board chose to override the letter dated May 21, 2013 from County of Rockland Department of Planning because the applicant modified the sign on the south side of the building and the Department of Transportation letter dated June 3, 2013 found that the granting of the variance would not negatively impact the State highway.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. Although the requested Section 3.11. CO District, Column 5, #6 and Section 4.22 (c) & (e) variances are substantial, they 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 letter dated June 3, 2013 from the State of New York Department of transportation states that the proposed variance would have no significant impact on the state transportation system; clearly eliminating the concern that the sign could interfere with the traffic signal. The applicant has agreed to reduce the sign on the south side of the building from 17 ½" letters to 15" letters.

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6. 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 Section 3.11. CO District, Column 5, #6 and Section 4.22 (c) & (e) variances are **APPROVED as Modified** (1) the sign on the south side of the building has been reduced from 17 ½" letters to 15" letters which reduces the length of the sign from 139" to 120"; 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.

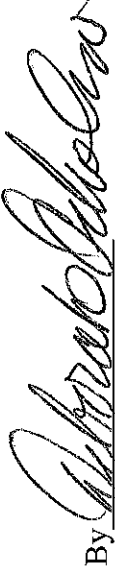
**TOWN OF ORANGETOWN**  
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The foregoing resolution to approve the application for the requested Section 3.11. CO District, Column 5, #6 and Section 4.22 (c) & (e) variances as modified (sign on the south side of the building shall be 15" x 120" and to override the letter from the County of Rockland Department of Planning dated May 21, 2013 was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
O&ZFAE  
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

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TOWN OF ORANGETOWN

DECISION

**LOT AREA, STREET FRONTAGE, FRONT YARD, SIDE YARD, BUILDING HEIGHT, SECTION 6.36 (GRAVEL PARKING AREA), SECTION 3.11, LI DISTRICT, COLUMNS 2 (CARETAKER RESIDENCE) AND 7 #5 (OUTDOOR STORAGE) VARIANCES APPROVED**

To: Jay Greenwell (All County Properties)  
85 Lafayette Avenue  
Suffern, New York 10901

ZBA # 13-40  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-40: Application of All County Properties for variances from Chapter 43 (Zoning) Section 3.12, Group QQ, Columns 5 ( Lot Area: 2 acres required, 1.4477 existing, 1.4373 proposed), 7 (Street Frontage: 150' required, 102.79' existing, 113.08' proposed), 8 (Front Yard: 50' required, 24.7' existing, 16.2' proposed to new building), 9 (Side Yard: 25' required, 16' proposed), and 12 (Building Height: 8.1' permitted, 25' existing, 16' proposed to new building); from Section 6.36 : Paved parking areas required; gravel parking area proposed); from Section 3.11, LI District Column 2 ( Uses permitted by right: variance requested for mixed use allowing tenant on upper floor with office below ( acting as "caretaker" to provide some yard security)[ residential use is pre-existing non-conforming condition] and from column 7 #5 ( All Storage shall be within completely enclosed buildings: outdoor storage of vehicles, landscape trailers, mowing equipment, macadam paving equipment, gardening tools and implements requested)Note: the net lot area, and front yard is being reduced due to gratuitous road widening dedication ; the frontage is increased due to road widening. The premises are located at 11 Old School Lane, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 29; LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, L.S., Jane Slavin, Architect, and Robert Chiapperino, owner, appeared and testified.

The following documents were presented:

1. Site plan dated 11/26/2012 with the latest revision date of 04/10/2013 signed and sealed by Jay Greenwell, L.S..
2. A memorandum dated March 13, 2013 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
3. A letter dated May 23, 2013 from the County of Rockland Department of Planning, signed by Thomas Vandebeek, P.E., Commissioner of Planning.
4. A letter dated June 3, 2013 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A letter dated May 29, 2013 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated May 7, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

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

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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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Albanese, aye; Ms. Salomon, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Sullivan, aye.

Jay Greenwell, L.S., testified that they also requested a side yard variance; that they are planning to convert the first story of the structure to an office for the contracts; that the entire house is presently being used as a residence; that this use is a pre-existing non-conforming use; that the proposed office space for the first floor is conforming with the zoning for the property; that they would like to be able to continue a portion of the pre-existing non-conforming use to permit an apartment upstairs to be occupied by someone that would act as a security person for the business; that they are proposing a 5,000 sq. ft. addition and adding a second floor to the existing garage; that they originally proposed an all gravel driveway; that the Planning board was not in favor of all gravel and they have since provided an extensive drainage plan and some pavement; that there was road widening which increased the front yard; that the building height is diminished in the rear; that this use is consistent with the neighborhood; and that even the request to keep the apartment upstairs is consistent because there are both commercial and residential uses in the area.

Robert Chiapperino testified that he has approximately ten trucks that would be stored outside; that O'Connolly Landscaping would also be renting space and storing his trailers outside.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested lot area, street frontage, front yard, side yard, building height, Section 6.36 (gravel parking area), Section 3.11, LI District, Columns 2 (caretaker residence) and 7 #5 (outdoor storage) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. This neighborhood is a mixture of pre-existing non-conforming residences and large commercial buildings; and this lot is located at the very end of a dead end street.

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2. The Board found that Section 9.32 of the Zoning Code applies to this application and that the application satisfies § 9.32: "Any nonconforming use may be changed to any conforming use or, on application to and with the approval of the Board of Appeals, to any use which the Board of Appeals deems to be more in character with the uses permitted in the district in which the said change of use is proposed".
3. The requested lot area, street frontage, front yard, side yard, building height, Section 6.36 (gravel parking area), Section 3.1.1, LI District, Columns 2 (caretaker residence) and 7 #5 (outdoor storage) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This neighborhood is a mixture of pre-existing non-conforming residences and large commercial buildings; and this lot is located at the very end of a dead end street.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested lot area, street frontage, front yard, side yard, building height, Section 6.36 (gravel parking area), Section 3.1.1, LI District, Columns 2 (caretaker residence) and 7 #5 (outdoor storage) 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.
6. 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 lot area, street frontage, side yard, front yard, building height, Section 6.36 (gravel parking area), Section 3.1.1, LI District, Columns 2 (caretaker residence) and 7 #5 (outdoor storage) variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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TOWN CLERK'S OFFICE

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


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

The foregoing resolution to approve the application for the requested lot area, street frontage, front yard, side yard, building height, Section 6.36 (gravel parking area), Section 3.11, LI District, Columns 2 (caretaker residence) and 7 #5 (outdoor storage) variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

**SECTION 3.11. COLUMN 5 #11 (SIZE OF SIGN) VARIANCE APPROVED**

To: Brian O'Connor (Arriflex Sign)  
419 Route 59  
Nanuet, New York 10954

ZBA # 13-41  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#13-41: Application of Arriflex Inc. for a variance from Chapter 43 (Zoning), Section 3.11, Column 5, #11 ( Sign : 60 sq. ft. permitted, 76.24 sq. ft. proposed) for a wall sign. The premises are located at 617 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.19, Block 1, Lot 1; L.O & R-40 zoning districts.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

Brian O'Connor, Frohling Signs, appeared and testified.

The following documents were presented:

1. Google earth picture of the building.
2. A sign plan dated September 2012 by Frohling Sign Company.
3. A letter dated June 3, 2013 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated May 7, 2013 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated May 7, 2013 from the State of New York Department of Transportation signed by Mary Jo Russo, Rockland County Permit Engineer.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

Brian O'Connor, Frohling Sign, testified that Arriflex is located across the street from the new Fed Ex building; that they have a 4' x 6' double sided sign on the street; that the town doubles that measurement because it is double sided and that sign equals 48 sq. ft.; that they are not changing that sign; that the company has recently re-done the interior of the building; that this company makes motion picture cameras and digital equipment; that the majority of movies that you see are filmed on this companies cameras; that the building is located off to the side when you enter the site; that they would like to install the building sign with back lights on the building near the entrance door; that this wall is 195 feet from Route 303; that the proposed letters are 36" high and the entire building sign is only 28 sq. ft.; that they need to identify the entrance to the offices because they have had a lot more people visiting the site lately; and that the sign hanging over the door has been removed.

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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 Section 3.11, Column 5 #11 (sign size) variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing sign on Route 303 is not changing and the additional signage of 28 sq. ft. will be near the entrance of the building, which is set back 195 feet from Route 303. The building contains offices and work space, and the building sign will be placed near the office entrance, to clearly direct customers to the proper entrance.
2. The Board found that the letter from Rockland County Planning Department dated May 7, 2013 did not take into consideration that the street sign was not changing and the additional 28 sq. ft. of signage that was proposed would be placed on a building that is 195 feet from Route 303.
3. The requested Section 3.11, Column 5 #11 (sign size) variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing sign on Route 303 is not changing and the additional signage of 28 sq. ft. will be near the entrance of the building, which is set back 195 feet from Route 303. The building contains offices and work space, and the building sign will be placed near the office entrance, to clearly direct customers to the proper entrance.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The existing sign on Route 303 is not changing and the additional signage of 28 sq. ft. will be near the entrance of the building, which is set back 195 feet from Route 303. The building contains offices and work space, and the building sign will be placed near the office entrance, to clearly direct customers to the proper entrance.
5. The requested Section 3.11, Column 5 #11 (sign size) variance is not substantial.

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6. 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 Section 3.1, Column5, #11 (sign size) variance is APPROVED, and resolved to override the 05/07/2013 letter from the County of Rockland Department of Planning letter; 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 of 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 Section 3.11, Column 5, #11 (sign size) variance and to override the letter dated May 7, 2013 from the County of Rockland Department of Planning was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR -B.vw.

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

DECISION  
SECTION 3.11. COLUMN 7, #5 (OUTDOOR STORAGE) AND SECTION 6.36  
(GRAVEL PARKING AREA) VARIANCES APPROVED

To: Donald Brenner (Organic Recycling)  
4 Independence Avenue  
Tappan, New York 10983

ZBA # 13-42  
Date: June 5, 2013

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 13-42: Application of Organic Recycling for variances from Chapter 43 (Zoning) Section 3.11, Column 7 #5 (Storage shall be within completely enclosed buildings: overnight storage of vehicles proposed) and from Section 6.36 (All parking areas shall be paved: gravel parking area proposed) for parking lots for area contractors. The site is located at 117A Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.19, Block 1, Lot 3 in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 5, 2013 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Jay Greenwell, Land Surveyor and Cassandra Lim, Owner, appeared and testified.

The following documents were presented:

1. Site plan dated 11/30/ 2012 with the latest revision date of 03/29/2013 signed and sealed by Jay A. Greenwell, L.S.
2. Two memorandums dated July 18, 2012 and March 13, 2013 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
3. Planning Board Decision #12-35 dated March 27, 2013 with a "Neg. Dec." attached.
4. A letter dated May 6, 2013 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated June 3, 2013 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
6. A letter dated May 23, 2013 from the Palisades Interstate Park Commission signed by Karl B. Roecker, Landscape Architect, with three pictures attached.
7. A five point list of Notice to All Parking Area Renters that shall be supplied to anyone renting space at Organic Recycling.

Mr. Sullivan, Chair, 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 notified 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 Regulations §617.6 (b) (3) and since the Planning Board conducted a SEQRA environmental review for the application, and on March 27, 2013 rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action, 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 Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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Donald Brenner, Attorney, testified that this is the only green industry in Rockland County; that the proposal is correct for the LI zone; that the LI zone is the only zone that permits lawn/landscaping use in Orangetown; that Organic Recycling has a million dollar pollution insurance policy; that the ground can be left gravel because any spill can be localized and cleaned up quickly; that the Planning Board overrode the County's comment concerning the 20' buffer; that there is no need for a landscape plan and the repair to the fence will be done.

Jay Greenwell, Land Surveyor, testified that installing a 20' buffer would cause a traffic problem; that the Planning Board found that a ten foot buffer would be sufficient; that new findings have held that a minor spill filtered in soil is less damaging than blacktop; that a gully filled with river stone improves water quality; and the applicant must meet strict standards to maintain the pollution insurance.

Cassandra Lim, Owner, testified that they have worked hand in hand with the Highway Department for the last 27 years; that they have a Rockland County Solid Waste Permit and are renewed for their Special Permit every five years.

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested Section 3.11, Column 7 #5 (outdoor storage) and Section 6.36 (gravel parking area) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property owners have laid out clear guidelines for all renters of space which include the following guidelines: (1) when using the parking lot please ensure that your vehicle does not leak any contaminant. No maintenance or any for of repair may be done on the Parking Lot; (2) All your equipment must be kept in closed trailer; (3) You should have spill kit on your truck; (4) If your vehicle is found to be leaking you are required to contain the spill immediately. If you are not present to do so, we will do so at your cost; (5) Any vehicle that is leaking may not be parked at the facility and may not be returned to the parking area until it is shown that the leak is fixed. The applicant also carries a million dollar pollution insurance policy.
2. The requested Section 3.11, Column 7 #5 (outdoor storage) and Section 6.36 (gravel parking area) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property owners have laid out clear guidelines for all renters of space which include the following guidelines: (1) When using the parking lot please ensure that your vehicle does not

leak any contaminant. No maintenance or any for of repair may be done on the Parking Lot; (2) All your equipment must be kept in closed trailer;(3) You should have spill kit on your truck;(4) If your vehicle is found to be leaking you are required to contain the spill immediately. If you are not present to do so, we will do so at your cost; (5) Any vehicle that is leaking may not be parked at the facility and may not be returned to the parking area until it is shown that the leak is fixed. The applicant also carries a million dollar pollution insurance policy.

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 Board overrode the Rockland County Department of Planning letter dated May 6, 2013 concerning a 20' buffer because the Planning Board found that a 10' buffer would be sufficient.
5. The requested Section 3.11, Column 7 #5 (outdoor storage) and Section 6.36 (gravel parking area) variances are not substantial.
6. 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 Section 3.11, Column 7 #5 (outdoor storage) and Section 6.36 (gravel parking area) variances are **APPROVED**, and resolved to override the 05/06/2013 letter from the County of Rockland Department of Planning; with the Specific Condition that the applicant replant the ten foot buffer and fix the parkway boundary Fencing; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

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

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

The foregoing resolution to approve the application for the requested Section 3.11, Column 7 #5 (outdoor storage) and Section 6.3.6 (gravel parking area) variances ; with the Specific Condition that the applicant replant the ten foot buffer and fix the parkway boundary Fencing; and to override the Rockland County Department of Planning letter dated May 6, 2013 was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Albanese, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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

DATED: June 5, 2013

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OEBZPAE  
BUILDING INSPECTOR -N.A.

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

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