

MINUTES
ZONING BOARD OF APPEALS
JULY 16, 2014

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

ABSENT: MICHAEL BOSCO
PATRICIA CASTELLI

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:

SIRAGUSA 68.12 / 3 / 34; RG zone	FRONT YARD VARIANCE APPROVED	ZBA#14-54
450 WESTERN HIGHWAY 74.10 / 1 / 30; CS zone	SPECIAL PERMIT APPROVED	ZBA#14-55
BNM PROPERTIES 76.08 / 1 / 6; LIO zone	FRONT YARD, SIDE YARD, BUILDING HEIGHT, OFF-STREET LOADING BERTH AND PARKING VARIANCES APPROVED	ZBA#14-56
LAMONT DOHERTY EMERGENCY GENERATOR PERFORMANCE STANDARDS 80.10 / 1 / 2; R-80 zone	APPROVED	ZBA#14-57
CARIBBEAN FOODS COMPRESSOR PERFORMANCE STANDARDS 74.19/ 1 / 2; LI zone	APPROVED	ZBA#14-58

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TOWN OF ORANGETOWN

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman, Daniel Sullivan, 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: Anellotech, Inc. Site Plan, 401 North Middletown Road, Orangeburg, N.Y. 68.08 / 1 / 1B; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.


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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:15 P.M.

Dated: July 16, 2014

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

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

TOWN CLERKS OFFICE
2014 JUL 29 PM 12 43
TOWN OF ORANGETOWN

DECISION

FRONT YARD VARIANCE APPROVED

To: Basil Siragusa
11 Charles Street
Tappan, New York 10983

ZBA # 14-54
Date: July 16, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-54: Application of Basil Siragusa for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Group Q, Column 8 (Front Yard: 25' required, 22' proposed) to cover an existing stoop at an existing single family residence. The premises are located at 11 Charles Place, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.12, Block 3, Lot 34; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2014 at which time the Board made the determination hereinafter set forth.

Basil Siragusa appeared and testified.

The following documents were presented:

1. A copy of a survey.
2. A hand drawing of the proposed roof covering for the stoop.

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

Basil Siragusa testified that he would like to cover the existing front stoop of the house to protect the entrance to the house from snow and ice; that they have owned the house for about for about thirty years; and that he can draw the existing shed on the site plan.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

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

DATED: July 16, 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 JUL 29 PM 12 43
TOWN CLERKS OFFICE

DECISION

SPECIAL PERMIT USE APPROVED

To: Brian and Laura Murphy
1 New Street
Sparkill, New York 10976

ZBA # 14-55
Date: July 16, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-55: Application of 450 Western Highway for a Special Permit Use, pursuant to Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, CS District, Column 3 # 8 (Other Retail / Services) for a veterinary clinic. The premises are located at 450 Western Highway, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 30; CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney and Laura Murphy appeared and testified.

The following documents were presented:

1. Architectural plans dated 11/ 4/ 1993 by Morton Marcus, Architect. (1 page)
2. Vicinity map.
3. A letter dated June 25, 2014 from the Rockland County Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter dated July 13, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A memorandum dated June 23, 2014 from Michael B. Bettmann, Chief Fire Inspector.

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 seeks area or bulk variances for construction or expansion of a primary or accessory or appurtenant, Non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls and is 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. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Donald Brenner testified that this property was once an old gas station; that in 1993 the new building was built and Dr. Delerno moved into it; that since then it has been occupied by Dr. Conenello, a Chiropractor and a Dentist; that for a short time there was a kitchen design business in the building; that this space has been empty since Dr. Conenello moved to a larger space; that this use would be a great use for the space; that the previous doctor saw approximately 6 patients per hour and the vet would be accommodating 2 patients per hour; so the existing parking would be sufficient; that he building is appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities; that the proposed use will not generate more traffic that there are no objecting neighbors in the audience; that the building has existed for twenty-five years and has been used for professional offices.

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PLANNING BOARD
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Laura Murphy, Veterinarian, testified that she would still be traveling to houses for appointments; that she needs a larger space for special treatments; and that if an animal needed overnight care, a twenty-four hour facility would be contacted and the animal would be taken there.

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 Special Permit Use is granted outweighs the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

The proposed use as described and represented by the applicant:

1. Will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
2. Will not cause undue traffic congestion or create a traffic hazard.
3. Will not create at any point of determination set forth in §§4.16, 4.17 and 4.18 any more dangerous and objectionable elements referred to in § 4.11 than is characteristic of the uses expressly permitted as of right in the same district.
4. Will not adversely affect the character of /or property values in the area.
5. Will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the town.
6. Will comply with all other regulations applicable to such use. For all special permit uses a proposed plan showing the size and location of the lot, design and location of the proposed facilities (including access drives, screening and streets within 1,000 feet) and a detailed description thereof must be submitted in accordance with the rules prescribed by the Board and if required by the Board.
7. Before any special permit use is granted, the applicant must secure approval of the proposed drainage structure by the town Engineer or the consulting engineers for the Town of Orangetown if required by a Building Inspector such Engineer. The applicant has not proposed any new construction that would impact the existing drainage.
8. The site development plan submitted must show that concrete sidewalks and curbs, to be constructed in accordance with the specifications of the Town of Orangetown, are to be provided, if required by the Board.
9. The applicant shall complete NFPA 72 Fire Alarm for the entire building, connected to Rockland County 44-Control, with amber strobe as per Orangetown Code.
10. A Key box outside of building for access to all businesses must be installed.
11. The tenant shall apply for and maintain Certificate of Compliance Fire Safety with the Fire Inspector's office.
12. The applicant shall supply emergency lighting as per NEC.

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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 Special Permit Use 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 Special Permit Use was presented and moved by Mr. Feroldi, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

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

DATED: July 16, 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
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TOWN OF ORANGETOWN

DECISION

FRONT YARD, SIDE YARD, BUILDING HEIGHT, OFF-STREET LOADING BERTHS, AND PARKING VARIANCES APPROVED

To: John Piccininni
37 Ramland Road
Orangeburg, New York 10962

ZBA # 14-56
Date: July 16, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-56: Application of BNM Properties for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, LIO District, Group CC, Columns 8 (Front Yard: 100' required, 30' & 17.5 proposed [2 front yards]), 9 (Side Yard: 100' required, 54.1' existing), 12 (Building Height: 4.375' permitted, 35.5' proposed) ; from Section 6.41 (Off-street loading berths: 5 required, 4 proposed) and from Section 3.11, Column 2, LIO District, Column 6 #6 (factory parking) and LIO District refers to LO District, Column 6 # 2 (office parking [136 spaces required, 90 spaces provided]) for an addition to an existing commercial building. The premises are located at 37 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 76.08, Block 1, Lot 6; LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2014 at which time the Board made the determination hereinafter set forth.

John Piccininni, Kathleen Hennessey ,Architect, and Richard Piccininni appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/01/2013 with the latest revision date of 06/06/ 2014 signed and sealed by Kathleen Hennessey, Architect. (6 pages).
2. Survey dated November 27, 2001 signed by Anthony R. Celentano, P.L.S.
3. Planning Board Decision #14-11 dated June 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 since the Planning board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning board acting as Lead Agency for this application, pursuant to coordinated review under State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.6 (b) (3); and since the Planning board conducted a SEQRA review on June 11, 2014, rendered an environmental determination of no significant adverse environmental impacts from the proposed land use action i.e., a "Negative Declaration" or "Neg Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulation §617.6 (b) (3). The motion was seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Castelli and Mr. Bosco were absent.

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Kathleen Hennessy, Architect, testified that they are proposing an expansion to the ground floor of the building for additional factory space and a second floor expansion for additional office space; that the proposed road dedication is the trigger for the front yard and building height variances; that they have added additional parking but parking is not an issue because of the number of employees.

John Piccininni testified that the building was built in 1988 and Bendix Moldings operated from the building; that he purchased the property and has an Architectural woodworking company occupying a portion of the building; that they need to expand and he would like to accommodate them because they are excellent tenants; that he does not want to lose them.

Richard Piccininni testified that since they first occupied the building the Tennis Courts and Crestron have been built.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard, side yard, building height, loading berth and parking variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed road dedication to the town is, in part, a factor in the requested variances and the building is located in an industrial park and the addition is in keeping with the character of the neighborhood.
2. The requested front yard, side yard, building height, loading berth and parking variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed road dedication to the Town is, in part, a factor in the requested variances and the building is located in an industrial park and the addition is in keeping with the character of the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard, side yard, building height, loading berth, and parking 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.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

General Conditions:

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

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

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

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

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


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

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

DATED: July 16, 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

TOWN OF ORANGETOWN
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DECISION

PERFORMANCE STANDARDS FOR GENERATOR APPROVED

To: Patrick O'Reilly
Lamont Doherty Earth Observatory
61 Route 9W
Palisades, New York 10964

ZBA # 14-57
Date: July 16, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-57: Application of Lamont-Doherty Earth Observatory for approval of Performance Standards pursuant to Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Section 4.12 for an emergency generator. The premises are located at 61 Route 9W, Palisades, New York and are identified on the Orangetown Tax Map as Section 80.10, Block 1, Lot 2; R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2014 at which time the Board made the determination hereinafter set forth.

Patrick O'Reilly appeared and testified.

The following documents were presented:

1. Plans labeled "Borehole Research Generator Installation" dated 08/01/2013 with the latest revision date of 04/24/ 2014 signed and sealed by Peter C. Rowland, P.E. (8 pages).
2. Overall Site Map dated November 22, 2006 with the latest revision date of 06/14/2006 signed and sealed by John R. Atzl, L.S..
3. A letter of explanation dated June 18, 2014 with pictures attached.
4. Performance Standards Resume of Operations dated June 19, 2014.
5. Fire Prevention Supplement.
6. Cummings Power Generation Exhaust Emission Data Sheet (5 pages).
7. Sound-attenuated and weather-protective enclosures (4 Pages).
8. Generator set noise solutions (6 pages).
9. A letter dated June 25, 2014 from the Department of Environmental Management and Engineering, Town of Orangetown signed by Joseph J. Moran, P.E., Commissioner.
10. A memorandum dated June 23, 2014 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.

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

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

TOWN CLERKS OFFICE
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Patrick O'Reilly testified that the Natural Science Foundation has purchased the generator for the Borehole Research building located on Lamont Campus; that this computer center hosts a data repository and server supporting the International Ocean Drilling Program; that this program investigates the geology of the earth's crust by drilling holes at the bottom of the sea floor and recovering cores for examination, cataloging and testing; the program has been interrupted by power failures in the past, typically for less than a few hours in length; that over the past three years the failures have been more frequent for much longer periods of time; that the new 85 KW natural gas standby generator will keep the server on line; and its location between out building and the neighboring residence will retard the transmission of noise in that direction; and the installation occurs entirely on private property and is not within the view shed of any public street or place or within the view shed of any adjoining residential properties.

Public Comment:

No public comment.

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

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 the documents presented, the Board found and concluded that:

1. Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated June 25, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (DEME) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated June 23, 2014 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention; the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, and Orangetown, and all other departments having jurisdiction of the premises.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for Performance Standards conformance, pursuant to Zoning Code § 4.1, is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown, letter dated June 23, 2014; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance, performance standards approval, 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, Performance Standards Review, 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 Zoning Code § 4.1 Performance Standards conformance with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown, letter dated June 23, 2014; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Mr. Quinn, aye. Mr. Bosco and Ms. Castelli were absent.

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

DATED: July 16, 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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DECISION

PERFORMANCE STANDARDS FOR CONDENSER APPROVED

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

ZBA # 14-58
Date: July 16, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-58: Application of Caribbean Food Delight for approval of Performance Standards, pursuant to Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 4.12 for a condenser. The premises are located at 117 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.19, Block 1, Lot 2; LI zoning

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 16, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, attorney and Frank Hughes appeared and testified.

The following documents were presented:

1. Plans for Caribbean Foods Delight dated 04/04/2014 with the latest revision date of 04/16/ 2014 signed and sealed by Sherif El-Far P.E. (1 page)
2. Colmac Coil plan (1 page).
3. RAE Sound Estimate dated 05/29/2014 (1 page).
4. Century Refrigeration project #114675 Caribbean Foods (6 pages)
5. Material Safety Data Sheets (7 pages).
6. Resume of Operations and Equipment form dated May 28, 2014.
7. Fire Prevention supplement.
8. A letter dated July 9, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
9. A letter dated June 25, 2014 from the Department of Environmental Management and Engineering, town of Orangetown signed by Joseph J. Moran, P.E., Commissioner.
10. A Memorandum dated June 23, 2014 from Michael B. Bettmann, Chief Fire Inspector.

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 that since the application entails the ZBA engaging in reviews to determine compliance with technical requirements, this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Mr. Bosco and Ms. Castelli were absent.

Donald Brenner testified that the new condenser is needed to cool the laboratories on east side of the building; that they are well within the roadway and on the ground and will not be visible from any other property; and that the sound ratings have been submitted.

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Public Comment:

No public comment.

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

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 the documents presented, the Board found and concluded that:

1. Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated June 25, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (DEME) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated June 23, 2014 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention; the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, and Orangetown Fire Inspector., and all other departments having jurisdiction of the premises.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the Performance Standards conformance, pursuant to Zoning Code § 4.1, is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown, letter dated June 23, 2014; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance, performance standards approval, 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, Performance Standards Review, 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.

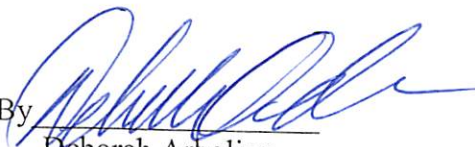
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The foregoing resolution to approve the application for Zoning Code § 4.1 Performance Standards conformance with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown, letter dated June 23, 2014; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Mr. Quinn, aye. Mr. Bosco and Ms. Castelli were absent.

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

DATED: July 16, 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

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