

MINUTES  
ZONING BOARD OF APPEALS  
MARCH 19, 2014

MEMBERS PRESENT:

JOAN SALOMON  
PATRICIA CASTELLI  
MICHAEL BOSCO  
DANIEL SULLIVAN, CHAIRMAN  
LEONARD FEROLDI, ALTERNATE

ABSENT:

NANETTE ALBANESE

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:

APPLICANTS PUBLISHED ITEMS DECISIONS

NEW ITEMS:

MIELE SITE PLAN 74.18 / 3 / 32, 32B,32D,32E32G,32H, 32I,32Q; LI zone	OPEN STORAGE; SIDE YARD, REAR YARD VARIANCES NO STRUCTURE SIDE YARD VARIANCE TO SHED LOT 32E APPROVED	ZBA#14-18
MC GUIRE 69.17 / 1 / 70; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#14-19
SKAE SITE PLAN 76.08 / 1/3 & 4; LJO zone	FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#14-20
PIETROLEUNGO 69.07 / 1 / 17; R-14 zone	§4.51; §4.52 EXTERIOR CHANGE TO BUILDING; §3.11, R-80 DISTRICT, COLUMN 2 #7 (600 SQ. FT. PERMITTED; 1,354 SQ. FT. PROPOSED) APPROVED	ZBA#14-21
HUTMACHER 69.10 / 1 / 2; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#14-22

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2014 APR 7 PM 12:36

TOWN OF ORANGETOWN

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:00 P.M.

Dated: March 19, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

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

TOWN OF ORANGETOWN  
2014 APR 7 PM 12 36  
TOWN CLERKS OFFICE

DECISION

**COLUMN 7 #3 (SCREENING FOR OPEN STORAGE YARDS), SIDE YARD: NO STRUCTURE, REAR YARD: NO STRUCTURE, AND SIDE YARD FOR SHED, VARIANCES APPROVED**

To: Donald Tracy (Miele)  
317 Little Tor Road South  
New City, New York 10956

ZBA # 14-18  
Date: March 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-18: Application of Miele Site Plan for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.11, Column 7 #3 (All open storage yards shall be screened from adjacent lots and from the street line; No screening is provided); Section 3.12, LI zone, Group QQ, Column 9 (Side Yard: 50' required, 0' proposed for lots 32B, 32D, 32E, 32G, 32H, 32I and 32Q for outdoor storage [no structure]); 11 (Rear Yard: 50' required, 0' proposed for lots 32I and 32Q for outdoor storage [No structure]) and from Section 3.12 LI zone, Group QQ, Column 9 ( Side Yard: 50' required, 45' existing for an existing shed) on lot 74.18/ 3/ 32E. The site is located at 375-377 Western Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 32 [ 32B, 32D, 32E, 32G, 32H, 32I, 32Q] in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2014 at which time the Board made the determination hereinafter set forth.

Donald Tracy, Attorney, and Joseph Miele appeared and testified.

The following documents were presented:

1. Plans prepared by Brooker Engineering, titled Commercial Subdivision Plant and Site Plan, dated 2/14/2012 with the latest revision date of 03/30/ 2012 signed and sealed by Kenneth DeGennaro, P.E..
2. A letter dated March 4, 2014 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.
3. A letter dated April 7, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
4. A letter dated February 14, 2014 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated February 11, 2014 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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 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 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 determined that no significant adverse environmental impacts to result 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 Regulations § 617.6 (b) (3). The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye;

TOWN OF ORANGETOWN  
2014 APR 7 PM 12 36

Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Albanese was absent. Ms. Castelli was absent for this hearing.

Donald Tracy, Attorney, testified that the property was purchased from Grossman Steel and it had a variance for open storage, which should run with the land; that they received a violation when Mr. Teplitz leased a section of the land and brought in concrete and rebar from the Tappan Zee Bridge to separate the two; that it was reported that he was crushing concrete and they were issued a violation; that this item should be resolved in Clarkstown Court soon; that it was not a crushing operation but a recycling operation; that at the time of the violation, Mr. Meile was told that he needed to get a site plan approved for permitting several landscapers to lease portions of the property for storage; that the Planning board referred them to the Zoning Board for the variances that are requested; that the front yard of the property is set low and has a lot of landscaping between Western Highway and the proposed areas for outdoor storage; that to the south is the old army housing which is being used for Homes for Heroes; that the rear of the property abuts the railroad and to the north is a junkyard/outdoor storage lots; that the proposed use of landscape equipment and storage will not have a negative impact on the environment or neighborhood; that this site had always had a variance for outdoor storage and was used for a sand /gravel pit.

Joseph Meile testified that there would be minimal traffic generated from the site; and that the sloped property is landscaped with trees and the storage areas are not visible from the road.

Public Comment:

Vicky Cooper, owner of 36 Western Highway, testified that the three family home she owns is directly across the street from the site and that she does not want any pollution or noise; that she wants a nice quiet neighborhood with trees, grass and flowers.

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 #3 screening; side yard for lots 32B,D,E,G,H,I & Q (no structure); rear yard for lots 32 I & Q, and side yard for lot 32E to existing shed, variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. This property is set back a significant distance from the road and abuts the railroad, a junkyard and the old army base which is being used for Homes for Heroes. The proposed outdoor storage of materials is not a new use for the property and will not adversely change the character of the neighborhood.

TOWN OF ORANGETOWN  
2014 APR 7 PM 12 36  
TOWN CLERK'S OFFICE

2. The requested Section 3.11, Column 7 #3 screening; side yard for lots 32B,D,E,G,H,I & Q (no structure); rear yard for lots 32 I & Q, and side yard for lot 32E to existing shed, variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This property is set back a significant distance from the road and abuts the railroad, a junkyard and the old army base which is being used for Homes for Heroes. The proposed outdoor storage of materials is not a new use for the property and will not adversely change 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 Section 3.11, Column 7 #3 screening; side yard for lots 32B,D,E,G,H,I & Q (no structure); rear yard for lots 32 I & Q, and side yard for lot 32E to existing shed, 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. This property is set back a significant distance from the road and abuts the railroad, a junkyard and the old army base which is being used for Homes for Heroes. The proposed outdoor storage of materials is not a new use for the property and will not adversely change the character of the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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 #3 screening; side yard for lots 32B,D,E,G,H,I & Q (no structure); rear yard for lots 32 I & Q, and side yard for lot 32E to existing shed, 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.

TOWN OF ORANGETOWN  
2014 APR 7 PM 12 36

TOWN CLERKS 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 Section 3.11, Column 7 #3 screening; side yard for lots 32B,D,E,G,H,I & Q (no structure); rear yard for lots 32 I & Q, and side yard for lot 32E to existing shed, variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Albanese was absent. Ms. Castelli was absent for this hearing.

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: March 19, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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2014 APR 7 PM 12:36

TOWN OF ORANGETOWN

DECISION

**ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED AS EXISTING 1' & 1.2' SIDE YARD TO BARN AND 15.2' TO HOUSE FROM BARN; SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED FOR HOUSE**

To: Daniel and Francine McGuire  
221 Rockland Road  
Pearl River, New York 10968.

ZBA # 14-19  
Date: March 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-19: Application of Daniel and Francine McGuire for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, Group M, R-15 District, Columns 9 (Side Yard: 15' required, 10.1' & 12.9' existing and proposed) and 10 (Total Side Yard: 30' required, 23' existing and proposed) [Section 5.21 (c) undersized lot applies] for an addition to an existing residence and from Section 5.227 (Accessory Structure setback: 5' required, 1' & 1.2' existing) for an existing storage building. The premises are located at 221 Rockland Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 1, Lot 70; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2014 at which time the Board made the determination hereinafter set forth.

Francine McGuire appeared and testified.

The following documents were presented:

1. Architectural plans dated 1/10/2013 with the latest revision date of 07/25/ 2013 signed and sealed by Harry J. Goldstein, Architect. (2 pages)
2. Survey dated October 1, 2002 with the latest revision date of November 4, 2013 signed and sealed by Robert Sorace, L.S..
3. A letter of support from an abutting property owner.

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

Francine McGuire testified that they purchased the house in 1995 and have been renovating the interior; that they would like to add a single story addition on the back of the house with a mud room; that they are proposing to stay in line with the existing house and would need a side yard variance to accomplish this; that the accessory structure is an old barn that was built around 1902; that it sits 1' and 1.2' from the property line and it 15.2' from the house; and that she would ~~like to keep the barn structure as is.~~ <sup>really like to keep the barn structure as is.</sup>

2014 APR 7 PM 12:35  
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 side yard, total side yard and accessory structure variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. All three requested variances are for existing conditions and the proposed addition on the rear of the house is extending the pre-existing non-conforming side yard and total side yard. The lot is long and narrow where the structure exists and the one-story extension will not adversely impact any property.
2. The requested side yard, total side yard and accessory structure variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. All three requested variances are for existing conditions and the proposed addition on the rear of the house is extending the pre-existing non-conforming side yard and total side yard. The lot is long and narrow where the structure exists and the one-story extension will not adversely impact any property.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard, total side yard and accessory structure 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 pre-existing non-conforming conditions were substantial but are not changing significantly.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN OF ORANGETOWN  
2014 APR 7 PM 12:37  
OWN CLERK OFFICE



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

General Conditions:

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

TOWN CLERKS OFFICE

2014 APR 7 PM 12:37


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard, total side yard and accessory structure variances was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Ms. Albanese 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: March 19, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2014 APR 7 PM 12:37  
TOWN CLERKS OFFICE

DECISION

**FRONT YARD, SIDE YARD, AND BUILDING HEIGHT VARIANCES  
APPROVED WITH SPECIFIC CONDITION**

To: Donald Brenner  
4 Independence Ave.  
Tappan, New York 10983

ZBA # 14-20  
Date: March 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-20: Application of Skae Site Plan for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, LIO District, CC Group, Columns 8 (Front Yard: 100' required, 58.3' proposed), 9 (Side Yard: 100' required, 53.1' proposed) and 12 (Building Height: 13.28' permitted, 30' proposed) for construction of a new building. The site is located at 337 – 339 Blaisdell Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 76.08, Block I, Lots 3 & 4 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Sarah Torrens, Attorney, and Peter Skae, appeared and testified.

The following documents were presented:

1. Plans prepared by Sparaco & Youngblood, PLLC, Civil Engineering \* Land Surveying Site Planning , titled Planimetric Plan for Skae Training, dated 11/15/2013 signed and sealed by Steven Michael Sparaco, P.E..
2. Architectural plans dated October 16, 2013 by Kier B. Levesque, Registered Architect.
3. A letter dated March 10, 2014 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeck, P.E., Commissioner of Planning.
4. A notice of public hearing that was scanned to the Borough of Old Tappan.
5. A notice of violation dated March 14, 2014 from the Town of Orangetown Department of Environmental Management and Engineering signed by Joseph Moran, P.E., Commissioner, DEME.

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 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 determined that no significant adverse environmental impacts to result 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 (December 11, 2013) 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: Ms. Salomon, aye; Mr. Feroldi, aye;

TOWN CLERKS OFFICE

2014 APR 7 PM 12 37

TOWN OF ORANGETOWN

Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Albanese was absent.

Donald Brenner, Attorney, testified that the applicant has been before the Town Board to present his plan to use this building as a training facility for athletes; that in order to keep the funding available the facility needs to be built within a certain timeframe; that it has been presented as an office space because that is a permitted use in this zone and they want to be honest with the Board and let them know that they are hoping to use the building as a training facility for athletes if the Town Board amends the language of the code to permit that use in this space; that the property is difficult because of the wetlands; that the building is proposed in this location to avoid the wetlands; that the building can be used as an office building if the code is not revised to permit the training facility; and that his client also owns the adjacent which can provide parking for this lot.

Peter Skae, testified that he lives in Old Tappan, that he has been working with the neighbors in Old Tappan and is trying to make the property by Longview Court a protected property that would not be built on; and that he is negotiating a deal with the camp to make an access road.

Public Comment:

Douglas James, 7 Longview Court, Old Tappan, New Jersey, testified that his home is behind the creek that there are 11 acres here that would be land locked by this project; and that he is concerned about that.

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 and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to move the proposed parking from the south to the north side of the lot away from the residences in New Jersey.
2. The requested front yard, side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to move the proposed parking from the south to the north side of the lot away from the residences in New Jersey.
3. The Zoning Board of Appeals has reviewed a submission that does not specify the precise use proposed, and is only granting area/bulk variances but not relating to any specific use; and the area/bulk variances granted herein are approved based on the condition that the use shall be as permitted in the Zoning Code Section 3.11 Table of General Use Regulations for the LJO Zoning District, and the ZBA acknowledged that the Building Inspector analyzed the zoning bulk regulations based upon Zoning Code Section 3.12, Table of Bulk Regulations, LJO Zone, Group CC.

TOWN CLERKS  
2014 APR 7 PM 12:37

TOWN OF ORANGETOWN

Skae

ZBA#14-20

Page 3 of 4

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 front yard, side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant has agreed to move the proposed parking from the south to the north side of the lot away from the residences in New Jersey.
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 front yard, side yard and building height variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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2014 APR 7 PM 12:37

TOWN OF ORANGETOWN

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

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

The foregoing resolution to approve the application for the requested front yard, side yard and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Albanese 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: March 19, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By:   
Deborah Arbollino  
Administrative Aide

DISTRIBUTION:

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

2014 APR 7 PM 12:37

TOWN OF ORANGETOWN

DECISION

**\$4.51 OWNER OCCUPIED COVENANT; \$4.52 EXTERIOR CHANGE TO THE BUILDING; \$3.11, R-80 DISTRICT, COLUMN 2 #7 (600 SQ. FT. PERMITTED; 1,354 SQ. FT. PROPOSED) VARIANCES APPROVED**

To: Donald Brenner (Pietroluongo)                         ZBA # 14-21  
4 Independence Avenue   Date: March 19, 2014  
Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-21: Application of Louis Pietroluongo, as amended by the applicant at the Public hearing held on 03/19/2014, for a "Single-Family Conversion" pursuant to Section 4.5 of the Orangetown Code (Chapter 43 of the Orangetown Code). The premises are located at 17 Marycrest Road, West Nyack, New York and are identified on the Orangetown Tax Map as Section 69.07, Block 1, Lot 17 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Sarah Torrens, Attorney, Louis and Ursula Pietroluongo appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/06/2013 with the latest revision date of 12/08/ 2013 not signed or sealed by Michael Savarese Associates, Architects. (10 pages)
2. Three letters in support of the application.
3. A fax from Dennis Michaels to Donald Brenner concerning the application.

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

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

Donald Brenner, Attorney, testified that he filed the building permit application for the family and the Building Inspector determined that the application was for a two family residence; that they would like to request a Single-Family Conversion under Local Law No. 7 of 1981 (Zoning Code § 4.5); that his clients wife is sick; that his son and daughter-in-law are helping to care for her; that they have two children and would like to move into the house to help the family; that his client has owned the house for 17 years; that his father-in-law is 89 years old and has lived on his own in Woodside Queens all of his life; that he is not well and they have been traveling down to his home daily and want to bring him up to live with them; that they would like his son's family to have separate living area and they would even be willing to do without the second kitchen if necessary.

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2014 APR 7 PM 12:37

TOWN OF ORANGETOWN

Public Comment:

Sean Quinn, 15 Mary Crest, testified that he has no objection to the addition or to the second kitchen; that his neighbors are great people and he hopes the Board grants the necessary variances.

Brian Caputo, 2 Mc Candleless Court, testified that he has lived in the house to the rear of the Pietroluongo family for two years; that the proposed addition would affect him the most and that he is speaking in support of the proposal and has no objections to the second kitchen.

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 §4.52 exterior change to the dwelling; and §3.11, R-80 District, Column 2 #7 (600 sq. ft. permitted; 1,354 sq. ft. proposed) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area without a second kitchen. The applicant has agreed to file the covenant, required by Zoning Code Section 4.51, with the Town, which requires that the subject home be owner-occupied.
2. The requested §4.52 exterior change to the dwelling; and §3.11, R-80 District, Column 2 #7 (600 sq. ft. permitted; 1,354 sq. ft. proposed) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area without a second kitchen. The applicant has agreed to file the covenant, required by Zoning Code Section 4.51, with the Town, which requires that the subject home be owner-occupied.
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 §4.52 exterior change to the dwelling; and §3.11, R-80 District, Column 2 #7 (600 sq. ft. permitted; 1,354 sq. ft. proposed) variances although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area without a second kitchen. The applicant has agreed to file the covenant, required by Zoning Code Section 4.51, with the Town, which requires that the subject home be owner-occupied.

TOWN CLERKS OFFICE  
2014 APR 7 PM 12:37

TOWN OF ORANGETOWN



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 §4.52 exterior change to the dwelling; and §3.11, R-80 District, Column 2 #7 (600 sq. ft. permitted; 1,354 sq. ft. proposed) variances are APPROVED with the Specific Condition that the covenant required by Zoning Code Section 4.51 be executed by the applicant, then submitted to the Town Attorney's office, then recorded (by the Town Attorney) in the Rockland County Clerk's Office (Costs of recording to be paid by the applicant); 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

Pietroluongo

2014 APR 7 PM 12:37


TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested §4.52 exterior change to the dwelling; §3.1.1, R-80 District, Column 2 #7 (600 sq. ft. permitted; 1,354 sq. ft. proposed) variances are APPROVED with the Specific Condition that the covenant required by Zoning Code Section 4.51 be executed by the applicant, then submitted to the Town Attorney's office, then recorded (by the Town Attorney) in the Rockland County Clerk's Office (Costs of recording to be paid by the applicant); was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Ms. Albanese 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: March 19, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
ZBA PPR 7 PM 12 37  
TOWN CLERKS OFFICE

DECISION

**SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED**

To: Terence Hutmacher  
72 Villa Drive  
Pearl River, New York 10965

ZBA # 14-22  
Date: March 19, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-22: Application of Terence Hutmacher for variances from Chapter 43 (Zoning) of the Orangetown Code, Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20' required, 19.3' existing, 14' proposed to porch and 17' proposed to dwelling), and 10 (Total Side Yard: 50' required, 46.5' proposed to porch, 49.5' to dwelling) for an addition to an existing single-family residence. The premises are located at 72 Villa Drive, Pearl River, New York and are identified on the Orangetown Tax Map as section 69.10, Block 1, lot 2 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 19, 2014 at which time the Board made the determination hereinafter set forth.

Terrance and Courtenay Hutmacher appeared and testified.

The following documents were presented:

1. Architectural plans dated 02/07/2014 signed and sealed by Harry J. Goldstein, Architect. (2 pages)
2. Survey dated February 10, 2014 signed and sealed by Anthony A. Sorace, PLS.
3. Two letters in support of the applicant.
4. One letter from an abutting property owner with concerns regarding privacy.

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

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

Terrence Hutmacher testified that he has been a resident of Orangetown since he was a year old; that he grew up in the house next door to this one; that he and his wife married in 2008 and purchased this house; that they have three children under the age of four and hope to have more children; that they are proposing an addition out the rear of the house; that the house was not built perpendicular to the property line and this is causing the need for the variances; that the Architect told them that they cannot place the addition further in on the house because it would conceal a bathroom window and cover the ventilation for the chimney exhaust; that the cost would be prohibitive to move the addition to the other side of the house; that he spoke to his neighbor Ms. Greene and he will install a green hedge on the property between her and the addition.

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2014 APR 7 PM 12:37

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 side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area. The applicant has agreed to plant a green hedge along the northern property line.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area. The applicant has agreed to plant a green hedge along the northern property line.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard and total side yard variances are 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.

TOWN CLERKS OFFICE  
2014 APR 7 PM 12:37  
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard and total side yard variances are APPROVED with the Specific Condition that the applicant plant a green hedge along the northern property line starting at the corner of the Hutmachers' existing structure next to the existing fence of Ms. Greene; 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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2014 APR 7 PM 12:37  
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Hutmacher  
ZBA#14-22  
Page 4 of 4

The foregoing resolution to approve the application for the requested side yard and total side yard variances with the Specific Condition that the applicant plant a green hedge along the northern property line starting at the corner of the Hutmachers' existing structure next to the existing fence of Ms. Greene; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Feroldi, aye; and Mr. Sullivan, aye. Ms. Albanese 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: March 19, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
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