

MINUTES
ZONING BOARD OF APPEALS
MARCH 4, 2015

MEMBERS PRESENT: DAN SULLIVAN
JOAN SALOMON
MICHAEL BOSCO
THOMAS QUINN
LEONARD FEROLDI, ALTERNATE
PATRICIA CASTELLI

ABSENT: NONE

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

ROHLAND SITE PLAN 401-407 Western Highway, Tappan, NY 74.18 / 3 / 31; LO zone	N.Y.S. TOWN LAW SECTION 280-a and SIDE YARD VARIANCE APROVED	ZBA#15-17
BAILEY’S RESTAURANT 136 Erie Street, Blauvelt, NY 70.14 / 4 / 6; CS zone	FRONT YARD VARIANCES APPROVED	ZBA#15-18
ALATSAS 234 Cardean Place, Pearl River, NY 68.12 / 6 / 17; RG zone	BUILDING HEIGHT VARIANCE APPROVED	ZBA#15-19
USA CONSTRUCTION 17 Greenbush Road, Orangeburg, NY 74.11 / 1 / 27; LI zone	PARKING SPACE VARIANCE APPROVED	ZBA#15-20
VERIZON WIRELESS GENERATOR PERFORMANCE STANDARDS 50 Ramland Road, Orangeburg, NY 73.20 / 1 / 30; LIO zone	PERFORMANCE STANDARDS APPROVED	ZBA#15-21

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson 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: The Shops at Orangeburg Commons, 2 South Greenbush Road, Orangeburg, NY; 74.15 / 1 / 21; LI & Route 303 Overlay zoning districts; Holt Construction Corp. Site Plan, 23 & 50 East Washington Avenue, Pearl River, NY 68.16 / 6 / 6 & 68.16 / 4 / 34; CS zone and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

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

Dated: March 4, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

Deborah Arbolino, Administrative Aide

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

DECISION
**NYS TOWN LAW SECTION 280-a EXCEPTION/VARIANCE AND SIDE YARD
FOR LOT E VARIANCES APPROVED**

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

ZBA #15-17
Date: March 4, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-17: Application of Rohland Site Plan for an exception /variance pursuant to New York State Town Law, Section 280-a (Relation of structure to streets or highways) and for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, LI District, Group QQ, Column 9 (Side Yard: 50' required, 36.6' provided for lot #E) for a site plan located at 401-407 Western Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 31; in the LO/LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2015 at which time the Board made the determination hereinafter set forth.

John Atzl, Land Surveyor, and Scott Dowd, Attorney, appeared and testified.

The following documents were presented:

1. Copy of site plan dated October 11, 2013 with the latest revision date of 12/12/2014 signed and sealed by John R. Atzl, Land Surveyor and Ryan A. Nasher, P.E. (3 pages).
2. A memorandum dated December 10, 2014 from John Giardiello, P.E., Director, Office of Building Zoning and Planning Administration and Enforcement , Town of Orangetown.
3. Planning Board decision PB#13-47 dated December 10, 2014.
4. A letter dated February 23, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated March 3, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.6 (b) (3); and since the Planning Board conducted a SEQRA review and, on December 10, 2014, rendered an environmental determination or **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 Regulation §617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

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John Atzl testified that the applicant went before the Planning Board for a commercial subdivision; that they received a preliminary approval and a neg dec; that there is a metal building on lot E that was constructed by a tenant without a building permit that is too close to the rear of the property; that there is a mutual right-of-way that is shared with the Miele property; that they are requesting a variance for the location of the metal building an exception from New York State Town Law for a 280-a variance; that the box trailer is movable; that he uses are permitted by right; that the residence is a pre-existing non-conforming use; that the property was in violation and that is how they started the commercial subdivision; that it is cleaned up by comparison previously; and that there has not been a change in tenancy.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard variance for lot E and the New York State Town Lawn 280-a exception /variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The entrance is existing to the property and the requested side yard variance is an interior variance for the commercial subdivision.
2. The requested side yard variance for lot E and the New York State Town Lawn 280-a exception/ variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The entrance is existing to the property and the requested side yard variance is an interior variance for the commercial subdivision.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard variance for lot E and the New York State Town Lawn 280-a exception /variance is not substantial.

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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 side yard variance for Lot E and the New York State Town Lawn 280-a exception /variance are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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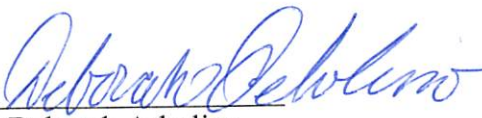
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard variance for Lot E and the New York State Town Lawn 280-a exception/ variance was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: March 4, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -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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TOWN CLERKS OFFICE

DECISION
FRONT YARD VARIANCES APPROVED

To: Paul Bailey (Bailey's Smokehouse)
136 East Erie Street
Blauvelt, New York 10913

ZBA #15-18
Date: March 4, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-18: Application of Bailey's Smokehouse for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, CS District, Group FF, Column 8 (Front Yard: 0' or 45' required, 28' and 17' proposed) for awnings to be installed on entrances and windows to existing restaurant. The restaurant is located at 136 East Erie Street, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.14, Block 4, Lot 6; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2015 at which time the Board made the determination hereinafter set forth.

James Collishaw, Project Manager, appeared and testified.

The following documents were presented:

1. Copy of site plan (1 page).
2. Architectural plans labeled "Dean Custom Awning" signed by Ronald R. Sydoruk, P.E. (4 pages).
3. Engineering Report and certification dated January 15, 2015 signed and sealed by Ronald R. Sydoruk, P.E. (4 pages).

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application seek 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 sq. ft. of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; the applicant 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. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

James Collishaw, Project Manager, testified that Bailey's would like to install eight awnings, four on the second floor and four on the first floor; that there are two areas that will project into the front yard; that two of the awnings are enclosures for entrances to the restaurant; that presently when the doors open a draft hits several tables in the restaurant and customers do not want to sit in these areas; that the new awning with enclosures will stop the drafts; that the awnings are constructed out of galvanized steel with a snow grading of 35 lbs. per sq. ft.; and the awnings are attractive.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed awnings and enclosures will enhance the property.
2. The requested front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed awnings and enclosures will enhance the 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 front yard variances, although somewhat substantial, afford benefits to the applicant that is not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed awnings and enclosures will enhance the property.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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TOWN CLERKS OFFICE

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

General Conditions:

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


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

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

DATED: March 4, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
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**DECISION
BUILDING HEIGHT VARIANCE APPROVED**

To: Donald Brenner (Alatsas)
One Independence Avenue
Tappan, New York 10983

ZBA #15-19
Date: March 4, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15- 19: Application of George Alatsas for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, Group Q, RG District, Column 12 (Building Height: 17'4" permitted, 27' proposed) for a new single-family residence. The premises shall be located at 234 Cardean Place, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.12, Block 6, Lot 17; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2015 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, George Alatsas appeared and testified.

The following documents were presented:

1. Survey/Plot Plan of 234 Cardean Place dated January 30, 2015 signed and sealed by Steven Michael Sparaco, P.E., and William D. Youngblood, L.S..
2. Architectural plans dated 1/22/2015 with a revision date of 03/26/2015 signed and sealed by Robert Hoene, Architect.

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

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

Donald Brenner, attorney, testified that the applicant is removing the existing rotted structure from the property and proposing a new structure that fits within the building envelope but will require a height variance.

George Alatsas, contractor, testified that the neighborhood has welcomed them because they will be happy to see the old structure gone.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar size structures exist in the neighborhood.
2. The requested building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar size structures exist in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. Similar size structures exist in the neighborhood.
4. The requested building height variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested building height 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 building height variance was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye.

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

DATED: March 4, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERKS OFFICE
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TOWN OF ORANGETOWN

DECISION
REQUIRED PARKING SPACE VARIANCE APPROVED

To: USA Construction
17 Greenbush Road
Orangeburg, New York 10962

ZBA #15-20
Date: March 4, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-20: Application of USA Construction for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, LI District, Column 6, #1 refers to R-80 District Column 6 # 3 (Recreation Buildings: 1 space per 200 sq. ft. required: 107 spaces required, 76 spaces proposed) for a crossfit center to be located at 17 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.11, Block 1, Lot 27; LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2015 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Copy of site plan labeled "Existing conditions survey for U.S.A. Construction Corp." dated 4/10/2012 revised 1/12/2015 signed and sealed by John J. Bezuyen, L.S.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application seek 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 sq. ft. of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; the applicant 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. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Donald Brenner, Attorney, testified that his client is presently located in the Orangetown Shopping Center, which is not an ideal location; that Crossfit trains Army Reservist, Orangetown and Clarkstown Police Departments and others; that the new proposed location at 17 Greenbush would work better for all involved, the interior space is large and there is easy access to rails to trails for runs; that the use requires 107 parking spaces and 76 spaces are provided; that they are short by 31 spaces; that this should not be a problem because Crossfit is not an open gym, classes are given at specific times and are limited to 20 people at the most; that they have classes at 5:30 A.M. until about 11:30 A.M. and again after six in the evening; that they should work well side by side with Galaxy Gymnastics because many of the patrons have children involved with gymnastics and would most likely sign up for classes at the same time.

Uri Sasson, owner of the building, testified that he spoke to Galaxy Gymnastics before he offered the lease to Crossfit; that he did not want a conflict because Galaxy rents the majority of the building; that they are pleased with Crossfit leasing the other portion of the building because the uses complement each other and their busy times are different.

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TOWN CLERK'S OFFICE

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested off-street parking space variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Crossfit offers classes that members need to sign up to attend. Classes are limited to no more than twenty members at a time. Crossfits' hours of operation do not conflict with the existing gymnasium classes. After careful review and listening to the testimony of the owner of the property and Crossfit owner, the Board is comfortable that the existing 76 parking spaces will be sufficient for the uses.
2. The requested off-street parking space variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Crossfit offers classes that members need to sign up to attend. Classes are limited to no more than twenty members at a time. Crossfits' hours of operation do not conflict with the existing gymnasium classes. After careful review and listening to the testimony of the owner of the property and Crossfit owner, the Board is comfortable that the existing 76 parking spaces will be sufficient for the uses.
3. The benefits sought by the applicant cannot be achieved by other means feasible to the applicant to pursue other than by obtaining a variance.
4. The requested off-street parking space variance, 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. Crossfit offers classes that members need to sign up to attend. Classes are limited to no more than twenty members at a time. Crossfits' hours of operation do not conflict with the existing gymnasium classes. After careful review and listening to the testimony of the owner of the property and Crossfit owner, the Board is comfortable that the existing 76 parking spaces will be sufficient for the uses.
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
2015 MAR 25 AM 11:30
TOWN CLERK'S OFFICE

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

General Conditions:

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

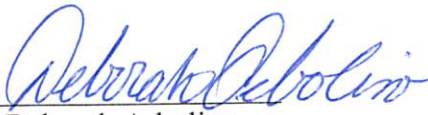
TOWN CLERKS OFFICE
2015 MAR 25 PM 11 30
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested off-street parking space variances was presented and moved by Ms. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye.

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

DATED: March 4, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2015 MAR 25 AM 11 30
TOWN CLERKS OFFICE

DECISION
PERFORMANCE STANDARDS APPROVED WITH CONDTIONS

To: Snyder & Snyder, LLP (50 Ramland Road)
94 White Plains Road
Tarrytown, New York 10591

ZBA #15-21
Date: March 4, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#15-21: Application of 50 Ramland Road for a review from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 4.1 pursuant to Performance Standards, for review of an emergency generator. The premises are located at 50 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 30; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2015 at which time the Board made the determination hereinafter set forth.

Jordan Frye, Snyder 7 Snyder and Anthony Botta, P.E., Tectonic Engineers, appeared and testified.

The following documents were presented:

1. Plans labeled "Wireless Edge Wireless Communication Facility dated 10/24/2012 , print date:12/29/2014 signed and sealed by Peter J. Tardy, P.E. (11 pages).
2. A letter dated January 23, 2015 from Tectonic signed and sealed by Edward N. Iamiceli, P.E. (4 pages) with a Noise Report for Proposed Emergency Generator dated January 16, 2015 (4 pages) signed and sealed by Edward N. Iamiceli, P.E..
3. A letter dated January 23, 2015 from Leslie J. Snyder, Attorney.
4. Performance standards resume of operations and equipment dated January 21, 2015.
5. Fire Prevention Supplement.
6. A memorandum dated November 12, 2014 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
7. A letter dated February 23, 2015 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
8. A letter dated March 3, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
9. A letter dated March 3, 2015 from the Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Town of Orangetown.
10. A memorandum dated February 7, 2015 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.

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

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

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Jordan Frye, Snyder & Snyder, testified that Wireless Edge is on a monopole at 50 Ramland Road; that they would like to a backup generator that would allow Verizon to operate if there is a blackout; that they received a preliminary approval from the Planning Board and are appearing before ACABOR; that they have submitted documentation from Tectonic that they meet the Town's standards and will be in compliance with the Fire Inspector; that the generator operates on propane; that they needed this tower to satisfy the applicants need; that the Planning board has all of the necessary documentation for the tower; that Sheet SP6 has the specifications for the generator; and that it will be 68.5' to the nearest property line.

Anthony Botta, Tectonic Engineering, stated that the generator has an internal monitoring system for propane; that tests are usually done in the afternoon; that the answer to number 20 would be Verizon Wireless equipment shed has fire suppression; that no harmful fuel is stored on site; and that they will revise the performance standards from to correct #20, explain #15 and name the building.

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

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated March 3, 2015 from Joseph J. Moran, P.E., Commissioner of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated February 17, 2015 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the letter dated March 3, 2015 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.; the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents submitted, the Board RESOLVED that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated February 17, 2015; and (2) that the Applicant adhere to all of the requirements set forth by the report dated March 3, 2015 from Joseph J. Moran, P.E., Commissioner, DEMA; (3) the letter dated March 3, 2015 from the County of Rockland Department of Highways by Sonny Lin, P.E.; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN CLERKS OFFICE
2015 MAR 25 PM 11 30
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for Conformance to Zoning Code §4.1 Performance Standards Review, was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: February 18, 2015

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

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