

MINUTES  
ZONING BOARD OF APPEALS  
JANUARY 21, 2015

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

ABSENT: NONE

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

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEM

APPLICANT

DECISION

CONTINUED ITEM:

ANELLOTECH	APPROVED	ZBA#14-81
PERFORMANCE STANDARDS	WITH CONDITIONS	
401 N. Middletown Road, Pearl River		
68.08 / 1 / 1B; LI zone		

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:00 P.M.

Dated: January 21, 2015

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

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DECISION  
**PERFORMANCE STANDARDS APPROVED WITH CONDITIONS**

To: Marc Schneidkraut, P.E. (Anellotech)  
401 N. Middletown Road Building 170A  
Pearl River, New York 10965

ZBA # 14-81  
Date: November 19, 2014  
January 21, 2015

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-81: Application of Anellotech for Performance Standards Review pursuant to Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 4.12 for an addition to an existing building to house a research and development facility to produce organic chemicals from sustainable and renewable biomass. The building is located at 401 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 1B; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meeting held on the following Wednesdays, November 19, 2014 and January 21, 2015 at which time the Board made the determination hereinafter set forth.

At the November 19, 2014 Donald Brenner, Attorney, Matthew Oscar, Architect, Donald Wanamaker, President, Environmental Management, LTD., Marc Schneidkraut, P.E., Process Engineer II, Anellotech, Bill Greenlaw, Operations Manager, Anellotech, and Charles Sorensen, PhD, P.E., Vice President, Research and Development, Anellotech, and Rachel Barese, Civil Engineer, appeared and testified.

The following documents were presented:

1. Site plan for Anellotech, Inc. dated 6/17/ 2014 with the latest revision date of 9/30/ 2014 signed and sealed by Lawrence Torro, P.E.
2. Two CD's labeled Anellotech Equipment Brochures dated 10/6/2014 and Anellotech Material Safety Data Sheets dated 10/6/ 2014.
3. Use Subject to Performance Standards Resume of Operations and Equipment form and Fire Prevention Supplement form with six pages of attachments.
4. A color print labeled "Anellotech: Addition to Building 123 Floor Plan dated 9/29/2014 with equipment legend and materials legend.
5. Planning Board Decision dated September 10, 2014 with Neg. Dec..
6. A letter dated October 8, 2014 from the Town of Orangetown, Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Commissioner.
7. A letter dated November 17, 2014 from the Town of Orangetown, Bureau of Fire Prevention signed by Michael B. Bettmann, Chief Fire Inspector.
8. A letter dated November 3, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz. Acting Commissioner of Planning.
9. A letter dated October 23, 2014 from the County of Rockland Drainage Agency signed by Vincent Altieri, Executive Director.
10. A letter dated October 23, 2014 from Shirley J. Thormann, Chairwoman, Town of Clarkstown Planning Board to Cheryl Coopersmith, Chief Clerk Board and Commissions.
11. A letter dated November 17, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
12. A memorandum dated September 10, 2014 from John Giardiello, P.E. to Cheryl Coopersmith and the Planning Board.
13. A letter dated July 23, 2014 from the County of Rockland Department of Health signed by Scott McKane, P.E. Senior Public Health Engineer.
14. An e-mail dated September 15, 2014 from Jennifer P. Clark, P.E., Resident Engineer, Department of Transportation.
15. The Calgon Carbon Difference (6 pages) submitted by applicant at the hearing explaining low-flow air purification applications.

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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, 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.

Donald Brenner, Attorney, testified that Anellotech moved into this space two years ago; that this is a building that was previously part of Pfizer; that they are a green company; that they are a research and development company that is planning to produce organic chemicals from sustainable and renewable biomass; that the application was before the Planning Board on September 10, 2014 and received a preliminary approval and a neg dec for SEQRA; that this is a pilot plan not a manufacturing plant; that they are testing findings in the laboratory; that they meet all the standards required by New York State; that they are taking an extra step and installing a carbon system; that they are not discharging any toxic chemicals; that they are not villains, they are scientists and professional engineers and chemists; that this proposed kind of green industry will cut down on oil use; that they will get the velocity when they return; that the stack is not a smoke stack but a team flume and is mislabeled on the drawing; that they are not looking to effect the health of the neighbors; that they are a research laboratory and will be regulated by OSIA; that they have no plan to expand at the present; and that they will return on January 21, 2015 after the Health Department reviews the application.

Marc Schneidkraut, P.E., Process Engineer II for Anellotech, testified that they are using non-food biomass products to produce liquid products that are collected in small quantities; that any waste products are collected are removed by a licensed contractor; that the building is 84 feet tall and the stack/vent pipe is 3 to 6' in diameter and it is a gravity driven system; that he does not know the exact velocity of discharge through the carbon system but will get that answer when they return to the Board; that the biomass material such as sawdust, corn husks, are trucked in to the facility in super sack 1500 lbs. and stored in the building; that there will be no outdoor storage of materials and no composting; that the materials are used at a rate of about 50 lbs. per hour; and that they will return after the Health Department reviews the submission.

Bill Greenlaw, Operations Manager for Anellotech, testified that there will be no discharge of materials into the sewer system; that all materials are taken to a licensed treatment center; and no modification is needed to the sewer system.

Charles Sorensen, PhD, P.E., Vice President Research and Development, Anellotech, testified that the Rockland County Health Department review would be welcome and could answer some of the concerns of the public.

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

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Public Comment:

Alex Gromac, Supervisor, Town of Clarkstown, testified that on July 23<sup>rd</sup> the Clarkstown Planning Board reviewed a referral sent from Orangetown that stated the application was for an addition to Building 123, Addition would house a Research and Development facility to produce organic chemicals from sustainable and renewable biomass; that the applicant's attorney is stating that they will work with the right people to work things out; that this is a pilot project raises red flags; that Nanuet residents that attended the Planning Board meeting in Orangetown brought the matter to the attention of the Clarkstown Planning Board their concerns at the October 22, 2014 meeting; that they are concerned about noxious gases benzene, toluene and xylenes; that he knows that they do not have legal jurisdiction but as the Supervisor he would like to gather additional information; that the answers from the applicant have been sketchy and the toxic fumes will travel across the border; that he is glad that this will be sent to the Rockland County Health Department.

George Hochman, 5 Lakeshore Drive, Nanuet; testified that this re-iterates a pattern of limited information and this just happened with the Town of Ramapo; that he would like to have more information; that there will be impacts on the County roads from this operation; and he requests that the Board collect all the residents names and addresses and notices of future meetings be mailed to them.

Ken Cully, 21 Nanuet Avenue, Nanuet, testified that Anellotech announces on May 8<sup>th</sup> that they are producing these products in Kilograms; that this is not a small pilot plan; that benzene is an extremely dangerous material; that it is toxic to blood and the central nervous system; that the applicant is asking to see if this works; that these materials would be trucked in over roads in Clarkstown; and that this could end up being a super fund site.

Scott Parness, 162 Grandview Avenue, Nanuet, testified that he lives .5 miles from the site; that he has concerns regarding the smoke stack and the velocity of discharge from it; that the company is producing 2 kilogram blocks of benzene and benzene is known for causing fatal cancers of the liver, kidney, lung, heart, and that vapors from it cause birth defects; that he would like to town to look at the risk verses reward for allowing such a use; that he wants to know if getting residents sick is worth the taxes gained from the property; that he is concerned if poison gases are going to blow noxious fumes into the air through the smoke stack and the employees will be protected.

Ray McCarthy, 35 West Palisades Avenue, Nanuet, testified that he has the same concerns as other members of the public about carcinogens from the smoke stack but is also concerned about how the products to be used will be stored; that his property backs up to the Pfizer property and he put up with smells from the mulch and composting for years; that he wants to know where the corn husks and such will be stored.

Marie Gartshorte, 24 West Palisades Avenue, Nanuet, testified that she works in the fragrance industry and all three of the substances that Anellotech are producing are banned from use in the fragrance industry ; that they stay in the air, water, soil and the Board should consider this.

Laura Woodward, 63 East Carrol Street, Pearl River, testified that she is a Pearl River resident and she is concerned and confused; did the Health Department review this?; and this is in her backyard and she wants to know what is going on.

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Pat Linekin, 442 Somerset Drive, Pearl River, asked how long Anellotech has been a resident of the Pfizer campus.

Eileen Larkin, 15 Horn Tooke Road, Palisades, questioned what SEQRA form was used for the Neg Dec; and asked when the code was written for the performance standards review; that chemical companies cannot be trusted; that she wants to know how the chemicals are delivered to the site and is it a 24 hour operation; that the chemicals could be googled and the Board should be more respectful.

Ed Walkley, 18 Nanuet Avenue, Nanuet, asked if this use will be expanded.

Dale Shields, 60 Forest Avenue, Pearl River, New York, testified that she heard Mr. Brenner say that he can't answer certain questions because of trade secrets; that this operation was done up in Massachusetts and the applicant should have answers if this operation has been done before.

Marc Goldsmith, 1 "Baltic Road, New Cite, New York, testified that he grew up in Pearl River, that his son lives there now; that he has two grandchildren living not far from this location; that he is concerned because the chemicals are deadly and that he would like to know if the applicant has a plan in case of a catastrophic event.

Pat McCarthy, 35 West Palisades, testified that building 210 & 211 are behind her house; that she did not get notice and that this is wrong; and if the compost stinks who does she call?

Nick Vento, 28 Rockland Avenue, Nanuet, testified that all of the "what if's" need to be answered.

Jean Willock, 42 East Carroll Street, Pearl River, testified that she has concerns about the emissions hitting the ground; asking if the ground will be tested; is there a plan for testing; and will the operation be shut down if there are dangerous emissions.

Dolores Vento, 28 Rockland Avenue, Nanuet, testified that she is concerned for her mother and grandmother and the schools that are a 1/2 mile from this property; that she hopes the Health Department acts on it; that the EPA and OSIA should take action; that everyone should make calls and let everyone know that we don't want this flammable explosive.

Ann Mare Berkowitz, 18 Englewood Avenue, Nanuet, testified that she does not want the air poisoned.

**January 21, 2015**

At the January 21, 2015 Donald Brenner, Attorney, Donald Wanamaker, President, Environmental Management, LTD., Marc Schneidkraut, P.E., Process Engineer I, Anellotech, Charles Sorensen, PhD, P.E., Vice President, Research and Development, Anellotech, David Sudolsky, President and CEO, Anellotech, and Libby Bowen, Senior Scientist, appeared and testified.

The following items were submitted for review:

1. A letter dated November 24, 2014 to the Rockland County Department of Health from Donald J. Wanamaker, President, Environmental Management, LTD..

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2. A letter dated December 1, 2014 from the County of Rockland Department of Health, Environmental Health Program signed by Judith M. Hunderfund, P.E., Director, Environmental Public Health.
3. A letter dated December 3, 2014 from the County of Rockland Department of Health Environmental Health Program signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter dated December 22, 2014 from Condon & Associates, PLLC to Kevin Garvey, Chairman, Orangetown Planning Board, signed by Brian K. Condon. (2 pages attachments)
5. A letter dated December 22, 2014 from the Town of Clarkstown signed by Jose C. Simoes, Principal Planner.
6. A letter dated December 24, 2014 from Alexander J. Gromack, Supervisor, Town of Clarkstown.
7. A letter dated January 8, 2015 from David Sudolsky, President and CEO, Anellotech, Inc. to Andrew Stewart, Supervisor, Town of Orangetown and Alexander Gromack, Supervisor, Town of Clarkstown.
8. A letter dated January 15, 2015 from the New York State Department of Environmental Conservation Division of Environmental Permits, Region 3, signed by Joseph R. Murray, Environmental Analyst, Division of Environmental Permits with 5 pages of attachments.
9. Site plan for Anellotech, Inc. signed and sealed by Lawrence E Torro , P.E. last revised 12/15/ 2014 ( 2 pages).
10. Falco 300 with VFD controlled 10hp dilution blower (1 page) dated 12/17/2014.
11. Anellotech: Addition to Building 123 Floor Plan dated 12/16/2014 revision 18.
12. A letter dated January 16, 2015 from Veolia Environmental Services signed by Donald G. Lee, Technical Services Manager, to Ms. Monica Arango, Anellotech.
13. A review of Anellotech Air Emissions for the Town of Orangetown by Triumvirate Environmental dated January 21, 2015 (7 pages including cover and attachments).
14. Review of Air Quality of Anellotech Zoning Board of Appeals Application from Trinity Consultants dated January 21, 2015 ( 6 pages) signed by Elizabeth Gorman, Senior Consultant.

Dennis Michaels, Attorney, read the new correspondence into the record.

Donald Brenner, attorney, testified that the applicant appeared before the Board on November 19, 2014 and asked for a continuation so that the application could get reviewed by more regulatory agencies, such as the DEC; that the Zoning Board also provided the performance standards application to two independent consultants for their review of the air quality from the Anellotech proposal; that the DEC report dated January 15, 2015, Trinity Consultants and Triumvirate Environmental provide data to help the public understand that the company won't harm the community; that the company is made up of engineers and scientists working for a green industry; and he will have one of the scientists answer some of the questions that the public brought up.

David Sudolsky, President & CEO, Anellotech, testified that the company has a mission to reduce the dependence on gas with renewable biomass that can be converted into chemicals that are ordinarily produced by gas; that taking sawdust and making benzene, toluene and xylene will cut down on our dependency on petroleum and is beneficial to the environment; that the facility in Pearl River is a research and development facility that will be used to produce data necessary for commercial production elsewhere; that there will not be commercial production at this facility; that they are hoping to get investors to purchase the licensing for manufacture after the testing is complete and successful; that at that time plants would be built around the world for production; that these plants would be built closer to where the biomass exists; that they would like to support the tax base in Orangetown , offer well paid jobs, support local contractors for construction and provide a partial solution to global warming; and hopefully have a

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mutual beneficial relationship with Orangetown; that the report from the DEC gives the worst case scenario and the last paragraph on page one of their letter clearly states that Anellotech's proposed exhaust vent pipe parameters and benzene emission rates listed in the tables below. The emission rates assume a 98% benzene abatement. Projected actual benzene destruction percentage is 99.5% from the catalytic oxidizer."; that the vent pipe is 80' tall and 6" wide; that they use gravity to move the catalyst around; that there may be a vapor of condensed steam which would consist of carbon dioxide, nitrogen and water; that the catalytic oxidizer is for additional safety; that they are not releasing any of the petro chemicals into the air because the catalytic oxidizer eliminates them; that the carting company is Veolia; that if they are successful in converting corn stover into BTX and accumulate information an outside company comes in and pays them a licensing fee (ex: Honeywell ---UOP) and the license gets royalties to build plants in other places around the world; that they could possibly be built in the southeast US and the northwest forestry land; that at this time in the production it becomes an economic process and it makes sense to be located where the biomass is located.

Charles Sorenson, PHD, Vice President of Research and Development, testified that the catalytic oxidizer combusts trace levels of vent gas to water; that he is not familiar with how Triumvirate compared emissions to cars and lawnmowers; that if any pesticides are present they would be destroyed by the high temperatures before reaching the catalytic oxidizer; that under 10,000 lbs. would be used for testing; and there is a built in monitoring that works before/after and during start up; that they will be keeping records in case the DEC would like to see them; that if there was a fire in the lab, there is a fire protection system ; that the building is sprinklered; and that the drums are sealed drums and they are in double containment.

Public Comment:

Andy Stewart, Supervisor, Town of Orangetown, testified that he would like to thank the public for their extraordinary work going over all of the materials and that he appreciates hosting the meeting in the courtroom, which is underutilized; that quite a bit of information was given to the Board and the public today; that he would not be surprised if the final decision was put off and all the questions related to safety were resolved before a decision is made.

Dan Sullivan, Zoning Board Chairman, responded to the Supervisor's comments; stating the Zoning Board of Appeals has no grounds to deny this application and that they have three expert reports regarding air quality and a decision will be made tonight.

Kathleen Kelly, 18 Van Buren Street, Pearl River, testified that she is very disappointed in Dan Sullivan's statement; that she is a P.E., a professor of health science and a doctor of nursing; that this project is hiding behind the guise of research and development; that Anellotech has already been selling samples to strategic partners for investment; that this is not right; that the RCDOH has no regulatory development for research and development; that the data submitted by the company was submitted to appease us and if they are not doing anything wrong they should let us do the testing; that they should prove the safety is valid.

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Alexander Gromack, Clarkstown Supervisor, testified that the Town of Clarkstown has continued to closely monitor the application; that the primary concern is that the substances manufactured by the facility should be monitored ; that he questions the nature of the facility as a research and development facility; that according to their own press release they are planning to make large quantities available; that he read the letter dated January 15, 2015 from the DEC and they seem to have concerns regarding the disposal process; and that the Article 78 concerned citizens filed by Brian Condon has named the Town of Clarkstown as an interested party.

Jose Simoes, Director of Planning, Town of Clarkstown, testified that this is procedurally strange that environmental information is being reviewed by the ZBA after the Planning issued a Neg.Dec.; that typically environmental information is reviewed before the issuance of a neg. dec.; that he is happy with the letter from the DEC stating that the annual concentration is shown to be 18 times lower than the DEC's annual guidance concentration and the EPA's "one in a million" cancer risk level; that the emission control should be recorded; that the Town should consider taking additional steps by putting money in escrow for periodic air quality monitoring; that the DEC letter asks for more details regarding solid waste management and operating hours; that he was going over the Orangetown code and he doesn't know if the items being used in the operation are permitted or prohibited by code; and stated that processes related to wood pulp and fiber are prohibited by Orangetown Code.

Christina Orfanoudakis, 129 East Lewis Avenue, Pearl River, testified about her concerns regarding a fire on site; and questioned who is equipped to handle it and how would that affect the emissions?

Dennis Michaels, Deputy Town Attorney, responded that the Bureau of Fire Prevention answered those concerns in their letter that was read into the record at the last meeting.

Larry Aufiero, 3 Loeser Drive, Nanuet, testified that he is not a scientist or a chemist; that this is the first town meeting he has attended; that he heard about companies coming to fill up the Pfizer campus; that he thought he should do some investigating when he heard about all the serious concerns; that he came to the conclusion that this is a green company that uses biomass to manufacture biochemical that lessens our dependency on petroleum; that this is a good thing and that the public is aiming their arrow at the wrong company.

Irving Zuckerman, 471 Bull Mill Road, Chester, New York, testified that he is a member of the Rockland Economic Board; that he has family working in Orange and Rockland Counties; that he is for economic development but not at the expense of the environment; that this company is looking to do research and development and this would be a great tax base for the county.

Denise Schorn, 204 Hobart Street, Pearl River, New York, testified that there is an extraordinary amount of biomass storage being done at the location; that the biomass is undefined; that the Board should insist on formal documentation of the type and amount of biomass to be stored in their super stacks; and she questioned if the biomass includes agricultural waste, manure, metabolic waste and municipal garbage; and how much will be cycled through the system over a specific amount of time.

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Scott Parness, 162 Grandview Avenue, Nanuet, testified that he finds it hard to believe that a decision can be made tonight, when the DEC wants more information; that all of the data has been provided by Anellotech; that he caught Mr. Sorenson in a fib at the Pearl River meeting; that he left out that he is primarily interested in making money, not saving the environment; that this application primarily effects Clarkstown residents; that the first application stated that they would have a smoke stack and now it is a vent pipe; that a long form EAF should have been done instead of a short form; that Veolia, their hazardous waste company has been sued for dumping chemicals illegally; that they hired a high price lawyer to push this through; and they expect the Board to do the right thing.

Heather Hurley, 202 Hobart Street, Pearl River, testified that there has been a lack of information from Anellotech; that there has been a lot of discrepancies in statements made by representatives from Anellotech; that at the November 19<sup>th</sup> meeting they refused to answer questions and the Attorney said they couldn't reveal their Secret Sauce; that all of the chemicals used by them should be listed on the performance standards form; that at the library meeting they changed their answer from 2 to 5 cars; that she was invited to a meeting at Anellotech in December with Supervisor Stewart and Councilman Valentine and could not get an answer about the corn stoveer, and if the methane gases collected are full of pesticides; and she questioned if the seeds are genetically modified and Mr. Sudolsky said "we don't know".

Paul Frisch, 2 Kirchner Drive, West Nyack, testified that this issue is important for Orangetown and Clarkstown residents; that everything should be clear and transparent; that they cannot rely on Anellotech's information because it keeps changing; that the discourse has been misleading; that you forgot to state your third goal, which is to make a ton of money; and the data given to the public today seems off and misleading; that the math doesn't work out for the metric tons per year.

Ken Cully, 21 Nanuet Avenue, Nanuet, testified that he lives north of the plant; that he was at the first meeting; that the answers and details from Anellotech keep changing; that the president stated that he has two lofty goals and left out his third goal to make a lot of money; that a smoke stack inside a building is still a smoke stack; that the man that spoke in support of the project that lives in Chester New York doesn't have to worry if the plant blows up and there are carcinogens being produced, stored and transported next to the residential neighbors.

Christi Thompson, 87 Turner Road, Pearl River, testified that she has several questions and asked what air testing emissions will be done and how often?; what testing of actual emissions will be done? And will the board look at the cumulative effect from other companies as they enter the campus?

Wendy O'Reilly, 8 Turner Road, Pearl River, testified that she has several questions and asked where are the drums of materials being stored?; how much is stored on site at one time?; what is the containment for storage of the drums if they leak?; if the catalytic oxidizer fails does the production shut down?; if there is an explosion with benzene, will the volunteer fire department respond?; how will the explosion effect the community? and how will the community be notified if there is an emergency?

At this time the applicant requested a break to get together all of the pertinent information to answer the questions posed by the public.

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Libby Bowen, Senior Scientist, Amack Foster Wheeler consultant to Anellotech, testified that the first set of questions had to do with safety, storage and volume of materials; that there is 300 gallons of materials on site at a time, in six 55gallon drums; that the drums are stored in the building and inside a secondary containment, which be a berm of another container around the drum; that the building is completely sprinklered; that there is specific emergency protocol to follow and then they would call the local Fire & Police as needed; that the biomass details have been provided to the Town; that there are no manure or bio waste used and only corn stoveer and wood dust would be used; that there are no pesticides and if there were they would be destroyed by the high temperatures before they made it to the catalytic oxidizer; that the quantities of materials stored on site at one time would be under 10,000 pounds; that monitoring is built in and testing would be done during start up would be an actual analysis of samples collected before and after; that as suggested but not required by the DEC, records will be kept in case the DEC wants to see them; that she doesn't really understand the question a burning home being compared to a fire in the lab.

Charles Sorensen testified that the question is quite complicated to answer and it would take analysis to figure out the comparison of a single-family house fore to a fire in the lab; that there are two inventories of benzene in the building; that a small amount would be present in the processing equipment itself, and it would be below regulating limits would be available to burn in a fire but the six drums are kept in a different section if the building to prevent that type of occurrence; that the benzene would be a sealed double drum with a fire protection system around them; that the site has an automatic shutdown system that monitors the emissions treated constantly monitoring the temperatures across the catalyst bed in EPA regulations following the exact same protocol; that this would be followed by back up with U.P.S. ; that they have protocol shutdown and shut down sequences; that the facility is always staffed with several operators and engineers and that the computer system would take over and shut down.

David Sudolsky testified that the corn stoveer that they would be using is currently used as feed stock and it is approved to be fed to food animals; that it is the part of the corn that is left from below the ear of the corn; that it is ground up an dried; that the unit that they are proposing to use has not been built yet; that the catalytic oxidizer has been used successfully since 1995; that the DEC letter states that "The emissions of air pollutants from the facility will be controlled using a catalytic oxidizer which is the same kind of technology used to treat car and truck mobile emission sources. This technology is proven to be very reliable since its introduction in 1975. They propose to monitor the performance of the converter by continuous monitoring of the delta T across the unit. They propose to continuously monitor the signal from the oxidizer's air blower. These two measurements will tell if the oxidizer is mechanically working and that hydrocarbon oxidation reaction is occurring. The facility will commence shutdown procedures if these measurements show the oxidizer is not properly working."

Donald Brenner, Attorney, testified that the applicant has answered over and above the requests from the Zoning Board that they have gone far and beyond what is required for a research laboratory facility; that they are not manufacturing and selling; that they are a research and development facility; and they hope to be successful.

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

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

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

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**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all 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 October 8, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated November 17, 2014 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the 01/15/2015 report from Joseph R. Murray, Environmental Analyst, of the New York State Department of Environmental Conservation; the 01/21/2015 report from Richard Foote, P.E., of Triumvirate Environmental; and the 01/21/2015 report from Elizabeth Gorman of Trinity Consultants; 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 Orangetown B.F.P., and all other departments having jurisdiction of the premises.

**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, Town of Orangetown B.F.P., dated November 17, 2014; and (2) that the Applicant adhere to all of the requirements set forth by the New York State Department of Environmental Conservation report dated 01/15/2015 signed by Joseph R. Murray, Environmental Analyst, Division of Environmental Permits; **AND FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

(v) Any foregoing variance, Performance Standards, 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, with the aforesaid Conditions, the Application for Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Quinn, aye; Mr. Bosco, 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: January 21, 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

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