

MINUTES
ZONING BOARD OF APPEALS
April 21, 2010

MEMBERS PRESENT: PATRICIA CASTELLI
JOAN SALOMON
DANIEL SULLIVAN
NANETTE ALBANESE
WILLIAM MOWERSON

ABSENT: NONE

ALSO PRESENT: Barbara Gionta, Esq. Deputy Town Attorney
Ann Marie Ambrose, Official Stenographer
Gina Raymond, Clerk Typist

This meeting was called to order at 7: 00 P.M. by Chairperson Mr. Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

MIGGE CONTINUED ZBA#10-17
77.11 / 3 / 70; CS zone

POSTPONED ITEM:

CRESTRON ELECTRONICS APPROVED ZBA #10-21
77.05 / 1 / 36 & 37; LIO zone WITH CONDITIONS

CRESTRON ELECTRONICS APPROVED ZBA #10-22
PERFORMANCE STANDARDS WITH CONDITIONS
77.05 / 1 / 36 & 37; LIO zone

NEW ITEMS:

ANDA REALTY CONTINUED ZBA#10-26
68.16 / 6 / 39; CS zone

ORGANIC RECYCLING APPROVED ZBA#10-27
74.19 / 1 / 3; LI zone WITH CONDITIONS

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.

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairman executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for SEQRA coordinated

environmental review of actions pursuant to the following applications: Tappan Golf Range, Amendment to Approved Site Plan Area B, Building for Batting Cages and Golf Club Shop, 118 Route 303, Tappan, New York 74.19 / 1 / 1; LI district; Tappan Golf Range, Area A, Go Kart Area, 118 Route 303, Tappan, 74.19 / 1 / 1; LI zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

Dated: April 21, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Gina Raymond
Clerk Typist

DECISION

LOADING BERTHS VARIANCES APPROVED; NEW YORK STATE TOWN LAW § 280-a EXCEPTION GRANTED

To: Steven Grogg, P.E. (Crestron Electronics)
Mc Laren Engineering
100 Snake Hill Road
West Nyack, New York 10994

ZBA # 10-21
Date: April 21, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-21: Application of Crestron Electronics for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, LIO District, Section 3.11, refers to Lo District, Column 7 (Loading berths shall be within completely enclosed buildings and the proposed loading berths are not within enclosed building) for 18 loading berths at a new building for light manufacturing, office and warehousing and for an exception from New York State Town Law, Section 280-a (relation of structure to streets or highways).. The premises are located at 38 Ramland Road, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 77.05, Block 1, Lot 36 & 37; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 21, 2010 at which time the Board made the determination hereinafter set forth.

Steve Grogg, P.E., Michael Elkin and Brad Meumann appeared and testified.

The following documents were presented:

1. Plans dated 2/12/10 (3 pages) signed and sealed by Steven Grogg, P.E.
2. Landscape plan (2 pages) dated 4/14/09 with the latest revision date of 2/8/10 signed by William B. Glasner, Landscape Architect.
3. Architectural plans (2 pages) dated Michael Elkin, Architect
4. A letter dated February 12, 2010 from McLaren Engineering Group, signed by Steven Grogg, P.E., Site-Civil Division Chief.
5. Project description (4 pages).
6. Planning board decision #09-11 dated January 27, 2010.
7. A letter dated January 27, 2010 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
8. A letter dated March 17, 2010 signed by Thomas W. Skrable, P.E. Consulting Engineer.
9. A letter dated March 17, 2010 from John Giardiello, P.E., Director, Office of

Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.

10. A letter dated March 16, 2010 from County of Rockland Department of Highways signed by Sonny Lin, P.E.
11. A letter dated March 16, 2010 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.
12. A letter dated March 11, 2010 from the Borough of Old Tappan, Bergen County, New Jersey. signed by Robike W. Noll, Land Use Administrator.
13. A letter dated March 8, 2010 from County of Rockland, Sewer District No. 1, signed by Joseph LaFiandra, Engineer II.
14. A letter dated July 10, 2009 from Thomas W. Skrable, P.E. Consulting Engineer.

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

On advice of Barbara Gionta, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye.

Steven Grogg, P.E., testified that the correct address is 38 Ramland Road, Orangeburg, New York; and that the applicant has been working on the project proposal for 2 years. Mr. Grogg stated that if the business opened in Orangetown, the company would be an asset for town employment. The applicant noted that as part of the Site Plan approval, the applicant has agreed to dedicate part of its property to complete Ramland Road as a public roadway with a turnaround on its property. Mr. Grogg described the project as having a 100 foot landscaped buffer to the East and South of the building and 18 loading docks. Due to the voiced concerns of the area residents, the building size was reduced and parking was moved to the Northeast side of building. The plan was also revised to meet Fire Department approval and berms, trees and buffers were added on the South side of the site as well as some landscaping and fencing to provide additional screening on the West side of the site.

Mr. Grogg described the open loading dock as being on the North side of the building; and that the loading area is 600 feet from the driveway entrance; and that the enclosed loading dock has no impact on adjacent properties and will not be visible or have any impact on properties; and that the landscape berm will have an 8' fence added within the property line; the applicant brought up concerns about potential air pollution from trucks; and that an analysis was done and that air quality would not create any hazard to properties; and that the loading dock is 11,000 square feet, to place the loading dock inside the structure would decrease the building size and also add ventilation costs to the building.

The applicant discussed the design of the landscape and how the view will affect the area. Mr. Grogg noted that the trucks will not be a visual issue since the plants, planting beds and tall evergreen trees will block the view of the site from the public street. The fence would be a composite cedar wood so it would not degrade.

Public Comment:

Lester Cohen, 167 Cows Penn Drive, Tappan, New York, stated that he lived in Orangeburg for 38 years and his concerns are health affects and that the loading berths should be in an indoor loading bay and that he requested permission to read a letter from

Martyn Ryan, Chair, Environmental Committee, Orangetown, who could not be present. Letter was read by Mr. Cohen into record. Mr. Cohen also requested to read an article from Mike Matora, who could not be present. The article was in reference to health effects of diesel emissions, also read into record

Clifford Powell, 2 Buckingham Road, Old Tappan, New Jersey, stated that he abuts 155 Corporate Drive; and that it does have impact for other residences

Steve Grogg, P.E., commented in regard to Mr. Cohen's concerns regarding health affects, while his intention are good, the applicant has made his speculation on hard evidence; and that a report on the health affects of diesel fuel has been conducted and concluded that there is no significant impact. Mr. Grogg noted that there is a County law that states trucks can not idle for more than 3 minutes; and that new trucks have a shut off valve. To this regard, the applicant held that there are no residences to the West of the site and no one from the camp objecting; that there is a 100 foot buffer adjacent to residential area; there is a landscape berm; and that all loading docks will have sealed columns.

Public Comment:

Beth DeCoursey, 9 Tory Circle, Tappan, New York, had question in regard to side yard parking, not asking for relief and does not show any parking in side yard.

Terry Wolf, 11 Constitution Road, Tappan, New York, stated that the hours of operation were never answered; raised concern regarding the hours of operation.

Steve Grogg testified that he discussed the proposed project with the Planning Board and that 18 trucks are needed to give flexibility; that they use 14 operational trucks and that it's more efficient to have additional loading docks to assist in their business operations.

Mr. Grogg stated that they recycle the cardboard used in their operations and noted that a contractor provides the containment, recycling and compaction of trash from the site, that recycling is fully enclosed in the building; it comes down the shoot to the container, then the container is pulled away and then it returns; the containers are enclosed. Mr. Grogg stated that the applicant uses UPS trailer trucks drop off in morning and take away in evening. He also noted that Phase 1 of the development has a 50' to 60' emergency exit truck clearance.

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., Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Patricia 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 outdoor loading berth variance and New York State Town Law 280-a exception would not produce an undesirable change in the character of the

neighborhood or a detriment to nearby properties. This is a commercial building in the LIO Zone which is permitted by right.

2. The requested outdoor loading berth variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances and exception from NYS Town Law 280-a. This is a commercial building in the LIO Zone which is permitted by right.
4. The requested outdoor loading berth variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
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 outdoor loading berth variance is APPROVED; the requested exception from New York State Town Law Section 280-a is GRANTED; 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.

10. Material Data Sheets (46 pages).
11. A letter dated April 12, 2010 from Bureau of Fire Prevention, Town of Orangetown, signed by Michael B. Bettmann, Chief Fire Inspector.
12. A letter dated February 23, 2010 from the Department of Environmental Management and Engineering, Town of Orangetown, signed by Ronald Delo, P.E., Director.
13. A letter dated March 16, 2010 from the County of Rockland Department of Planning, signed by Salvatore Corallo, Commissioner of Planning.
14. A letter dated March 16, 2010 from Rockland County Department of Highways, signed by Sonny Lin, P.E.

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

Steven Grogg, P.E., testified that truck deliveries will not be made during the hours of 11 p.m. to 6 a.m. Mr. Grogg testified that at the site, the operations consisted of mechanical assembly, packing, distribution and warehousing; noting that electronic assembly is done elsewhere. He stated that the forklifts that are used are all electric and that three to four are used on site. Mr. Grogg noted that the indoor air compressors are ultra quiet and are located inside the building; and that they use airpower tools.

On advice of Barbara Gionta, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is exempt from the State Environmental Quality Review Act (SEQRA) pursuant to SEQRA Regulations §617.5 (c) (28) engaging in a review to determine compliance with technical requirements which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; Mr. Sullivan, aye; and Mr. Mowerson, aye.

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.

Mr. Mowerson 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. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated April 12, 2010 from Michael Bettmann, Chief Fire Inspector, Bureau of Fire Prevention of the Town

of Orangetown; the letter of the Director of the Orangetown Department of Environmental Management and Engineering dated February 23, 2010, concluding there is no reasonable doubt as to the likelihood of applicant's conformance; the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in the Orangetown Zoning Code (Chapter 43) Section 4.1 will result, sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Building Department and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for Performance Standards Conformance is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Bureau of Fire Prevention and; 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.

The foregoing resolution to approve the application for the Performance Standards Conformance Approval as conditioned was presented and moved by Mr. Mowerson,

seconded by Ms. Castelli, and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, aye; and Mr. Mowerson, 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: April 21, 2010

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Gina Raymond
Clerk Typist

AMENDED see page 3 (Decision)

DECISION

SPECIAL PERMIT EXTENSION GRANTED FOR 5 YEARS

To: Cassandra Lim (Organic Recycling)
117A Route 303
Tappan, New York 10983

ZBA #10-27
Date: April 21, 2010

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#10-27: Application of Organic Recycling for an extension of ZBA# 04-65; for relief from condition #1 of the Zoning Board of Appeals Decision # 99-80, dated September 1, 1999, limiting duration of a composting operation to a period of five years; and for an extension of 5 years as modified and conditioned and to correct the address in ZBA#99-80. Premises are located at 117A Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.19, Block 1, Lot 3; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 21, 2010 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Cassandra Lin and Beng Leong Ooi appeared and testified.

The following documents were presented:

1. Use Subject to Performance Standards Resume of Operations.
2. Zoning board Decisions #04-65 dated 5/19/04 and #99-80 dated September 1, 1999.
3. A letter dated April 21, 2010 from the State of New York Department of Transportation, signed by Mary Jo Russo, PE.
4. A letter dated April 19, 2010 from the County of Rockland Department of Planning, signed by Salvatore Corallo, Commissioner of Planning.
5. A letter dated April 14, 2010 from the County of Rockland Department of Health, signed by Thomas M. Micelli, P.E., Director, Environmental Public Health.
6. A letter dated April 9, 2010 from the County of Rockland Drainage Agency, signed by Edward F. Devine, Rockland County Drainage Agency.
7. A letter dated April 5, 2010 from Department of Environmental Management and Engineering, Town of Orangetown, signed by Ronald C. Delo, P.E., BCEE, Director.
8. A letter dated March 29, 2010 from the County of Rockland Department of Highways, signed by Charles H. Vezzetti, Superintendent of Highways.
9. A letter dated March 22, 2010 from the County of Rockland, Rockland County

Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer.

10. A letter dated April 19, 2010 from the Palisades Interstate Park Commission, signed by Karl B. Roecker, Landscape Architect.

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

On advice of Barbara Gionta, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson 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; Ms. Albanese, aye; and Mr. Mowerson, aye.

Donald Brenner, Attorney, testified that his client needed to renew the Special Permit previously granted by the Zoning Board, of which this is the second renewal. Mr. Brenner explained that the site has not had any changes to its use nor any increases to the materials brought onto the site. The applicant's use of the 85 acre site consists of mulching, pasteurized woodchips, selling different kinds of decorative stone, fertilizer and roof top garden soil. Mr. Brenner stated that all of the organic materials are moved off the site; shipping out leaves and grass

Public Comment:

Dan Scott, 21 Hansen Street, Tappan, testified that he was here at the meeting in 2004 and that his concerns are the odors from the facility. Mr. Hansen agreed with everything that was read into record and supports the 5 year extension.

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. Mowerson 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. A limited extension of 5 years to conduct a composting operation would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The operation has been conducted for a number of years without any violations.
2. The requested extension of 5 years would have no adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by any other means feasible for the applicant to pursue other than by obtaining a variance.
4. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43), 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 five year extension of time to conduct a composting operation is APPROVED for a five year period; which period will expire five years from the date this decision is stamped and filed; 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.

The foregoing resolution to approve the application for the requested extension of Special Permit was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows; Ms. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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: April 21, 2010

ZONING BOARD OF APPEALS

TOWN OF ORANGETOWN

By _____
Gina Raymond
Clerk Typist