

MINUTES
ZONING BOARD OF APPEALS
DECEMBER 5, 2007

MEMBERS PRESENT: WILLIAM MOWERSON
NANETTE ALBANESE
JOHN DOHERTY
PATRICIA CASTELLI
DANIEL SULLIVAN

ABSENT: NONE

ALSO PRESENT: Kevin Mulhearn, Esq. Deputy Town Attorney
Anne Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Chairman William 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:

BLAUVELT CAR WASH 70.10 / 3 / 16; CC zone	POSTPONED	ZBA#07-106
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NEW ITEMS:

CLARINS WAREHOUSE SALE 73.16 / 2 / 78; LIO zone	CONTINUED	ZBA#07-114
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HILDERBAND 70.10 / 1 / 74.2; R-15 zone	SIDE YARD REAR YARD VARIANCES APPROVED AS AMENDED	ZBA#07-115
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BYRNE SUBDIVISION 69.05 / 4 / 41; R-15 zone	CONTINUED	ZBA#07-116
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LAMOND 69.14 / 3 / 18; R-15 zone	DRIVEWAY GRADE VARIANCE APPROVED	ZBA#07-117
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NOONAN'S RESTUARANT 68.20 / 1 / 13; CS zone	OUTSIDE DINING APPROVED WITH CONDITIONS	ZBA#07-118
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HUNTER DOUGLAS 73.10 / 1 / 6; OP zone	LOADING BERTH & BUILDING HEIGHT VARIANCES APPROVED	ZBA#07-119
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SCHREINER MEDI PHARM PERFORMANCE STANDARDS 65.18 / 1 / 5; LI zone	APPROVED WITH CONDITIONS	ZBA#07-120
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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 12:00 P.M.

Dated: December 5, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
ASSESSOR
HIGHWAY DEPARTMENT
SUPERVISOR
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING
Rockland County Planning

DECISION

SIDE YARD AND SECTION 5.227 REAR YARD VARIANCES APPROVED AS MODIFIED

To: Harold Hilderbrand
28 Shorn Drive
Blauvelt, New York 10913

ZBA # 07-115
Date: 12/ 5/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-115: Application of Harold Hilerbrand for variances from Chapter 43, Section 3.12, R-15 District, Group M, Column 2 (Side Yard:20' required, 8' proposed) and Section 5.227 (20' Rear Yard required, 8' proposed) for the installation of an in-ground pool at an existing single-family residence. Premises are located at 28 Shorn Drive, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.10, Block 1, Lot 74.2; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 5, 2007 at which time the Board made the determination hereinafter set forth.

Harold Hilderbrand appeared and testified.

The following documents were presented:

1. Survey dated January 15, 2004 by Robert Rahnefeld, LS.
2. Plot plan showing proposed pool location.
3. One letter in support of the application.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under

SEQRA regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Harold Hilderbrand testified that he would like to install an in-ground pool in the right side corner of the rear yard; that the sun tracks that way; that if the pool were installed on the other side of the yard the slate patio would have to be removed or reconfigured; that the pool company told them that the pool couldn't be dug there without ripping up part of the patio; and that the pool could be moved to give a 10' rear yard and a 10' side yard.

Public Comment:

Russell Gura, neighbor to the right spoke in favor of the application and submitted a letter in support of the application.

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.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and rear yard variances as modified to 10' would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other property owners in neighborhood have installed in-ground pools.
2. The requested side yard and rear yard variances as modified to 10' would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard and rear yard variances is **APPROVED** as **MODIFIED** to provide a 10' side yard and rear yard set back; 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 side yard and rear yard variances as modified to 10' rear yard and 10' side yard was presented and moved by Mr. Mowerson, seconded by Ms. Albanese, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, 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: December 5, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -J.P.

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

DECISION

DRIVEWAY GRADE VARIANCE APPROVED

To: Brian and Dawn Lamond
54 Bocket Road
Pearl River, New York 10965

ZBA # 07-117
Date: 12/ 5/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-117: Application of Brian and Dawn Lamond for a variance from Chapter 43, Section 6.332 (Driveway Grade: 10% permitted, 13.75% approved [ZBA#04-137], 15.33% existing) for a driveway at an existing single-family residence. Premises are located at 54 Bockett Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 3, Lot 18; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 5, 2007 at which time the Board made the determination hereinafter set forth.

Brian and Dawn Lamond appeared and testified.

The following documents were presented:

4. A letter dated October 23, 2007 from Brian and Dawn Lamond.
5. Engineer drawings dated January 18, 2004 signed and sealed by Dennis Letson, P.E. (2 pages).
6. Five pages of calculations.
7. Two letters in support of the application.
8. One letter signed by ten neighbors in support of the application.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Brian Lamond testified that after completing the driveway they realized that there was an error in the initial calculations of the slope; that it took this long to find the problem because the engineer was going through a divorce and couldn't be reached; when he did the as-built survey was when the error was found; and that they are before the Board now to correct the error and close out their permit.

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.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested driveway grade variance would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested driveway grade variance would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other

than obtaining a variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested driveway grade 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.

The foregoing resolution to approve the application for the requested driveway grade variance was presented and moved by Ms. Castelli, seconded by Mr. Mowerson, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, 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: December 5, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –J.P.

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

DECISION

OUTDOOR RETAIL SALES VARIANCE APPROVED

To: Donald Brenner (Noonan's)
16 East Central Avenue
Pearl River, New York 10965

ZBA # 07-118
Date: 12/ 5/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-118: Application of T. F. Noonan's for a variance from Chapter 43, Section 3.11, Column 7 # 3 (All retail sales and service establishments shall be within completely enclosed buildings) for a fenced in patio for outside dining. The site is located at 16 East Central Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 13; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 5, 2007 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Lawrence Vergine appeared and testified.

The following documents were presented:

9. Architectural plans labeled proposed garden signed and sealed by Jane Slavin, Architect.
10. Three letters in support of the application.
11. A letter dated May 21, 2003 from Mier Malmazada, M.D.
12. A letter dated December 5, 2007 from John G. Stoughton, Senior Public Health Sanitarian, County of Rockland Environmental Health Program.
13. A letter dated December 5, 2007 from John G. Stoughton, Senior Public Health Sanitarian, County of Rockland Environmental Health Program with an addition added at 4:00 P.M..
14. Justice Court papers dated November 20, 2007 signed by Judge Ramsey.

On advice of Mr. Mulhearn, Attorney to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action under SEQRA regulations which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Mr. Doherty, aye; and Mr. Mowerson, aye.

Mr. Brenner testified that his client enclosed an area in the rear of his restaurant for customers to smoke because of the statute regarding no smoking inside any establishment in New York (the New York State Clean Indoor Air Act); that the customers were standing outside in front of the establishment and taking drinks with them at times; that it was very hard to control that area and the mess was terrible every morning; that they thought they could legally erect the six-foot fence because it is in the rear of the building; and they installed the tables and chairs so that customers could sit and relax.

Lawrence Vergine testified that since July 2003 he has gotten three indoor smoking fines; that he was threatened at the end of June 2006 that if he was fined again it would affect his license; that he had two options either continue the smoking in the front or move everyone out back to smoke; that it was very hard policing the front and he did not want people walking out front with beers because it is illegal; that he has a liquor license to serve outside in the back in the fenced in area; that he installed paving stones, the fence, \$1,000.00 worth of shrubs; that the area out back cost \$70,000.00; that the letter of violation from Rockland County Health has been replaced with a new letter of no violation; that he has letters in support of the application; that there are no ventilation problems; that this area is needed for economic reasons; that this is a CS zone; that the fenced area keeps everyone close to the building; that it is easier to watch everyone back there; that he would have no objections to limiting the time for food service; that he would like to continue to use the area for smokers until closing; that he has owned the business since 2003; that business decreased in 2003 because of the smoking ordinance; that it has since leveled off with the outdoor area for smokers; and that his clientele range from their late twenties to forties.

Public Comment:

Joan Noonan testified that she lives in a house behind Noonan's; that she is allergic to smoke; that this area is not quiet; that when people are outside smoking it drifts right into her backyard and in nice weather it drifts into her kitchen; that she use to have a quiet backyard; that beer bottles have been thrown into her yard; that permitting smoking back there is hazardous to her health; that she has lived in her house for fifty five years and does not need second hand smoke; and that she is a nurse and has helped people quit smoking.

Ann Marie Tromer, 10-12 East Central Avenue, testified that she owns a building with three commercial tenants and two apartments; that the turnover in residential tenants is a problem because of all the noise and trespassing; that there is a problem with beer bottles, urination, and noise now; and that allowing outside eating and drinking will only increase the problem.

Tom Kerry testified that he is a fifteen year resident of Pearl River; 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.

Keith Trommer testified that there is a big difference between allowing people to go outside for a cigarette and to allow people to drink and smoke outside; that Bailey's use to let people take their drink outside to the patio area and smoke and it was always crowded on the patio, then they stopped letting people take their drink outside and the patio wasn't so crowded anymore.

Neil Acer, owner of Defiant Brewing Company and a member of the Chamber of Commerce stated that this patio is an effective way to have a secure area for people to smoke and it is behind the building instead of people hanging around on the main road in front of Noonan's.

Peter Bellhouse, owner of a restaurant two doors down testified that the rear parking area in the back of Noonan's is shared by the Chinese Restaurant, the bar and the building next door; that this is a sensible solution to keep the front of the restaurant clean; and the back is cleaned everyday.

Michael Finnegan testified that he is a non-smoker and that he thinks the area behind Noonan's is perfect for smokers because they are contained into one area; that it is good for business.

Greg Pawlak, Montvale, New Jersey, testified that he is a non-smoker and frequents Noonan's because it is a controlled area for smoking.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested outdoor retail sales and service variance as conditioned would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed area is enclosed with a six foot privacy fence and is located at the rear of the restaurant.
2. The outdoor sales and service shall not extend beyond 10:00 P.M. Sunday through Thursday and 11:00 P.M. on Friday and Saturday nights.
3. All food and beverages must be served from inside the restaurant.
4. There shall be no outdoor music.
5. There shall be no outside bar.
6. All chairs shall be stacked after 10:00 P.M. on weekdays and 11:00 P.M. on Friday and Saturday.
7. The requested outdoor retail sales and service variance as conditioned would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
8. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested outdoor retail sales and service variance is **APPROVED** with the following conditions: 1) All food and beverage must be served from inside the restaurant; (2) There shall be no outdoor music; (3) There shall be no outside bar; the outdoor sales and service shall not extend beyond 10:00 P.M. Sunday through Thursday and 11:00 P.M. on Friday and Saturday nights; (4) All chairs shall be stacked after 10:00 P.M. on weekdays and 11:00 P.M. on Friday and Saturday; 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 outside retail sales and service variance as conditioned was presented and moved by Mr. Mowerson, seconded by Ms. Albanese, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, 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: December 5, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

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

DECISION

BUILDING HEIGHT AND LOADING BERTHS VARIANCES APPROVED

To: Donald Brenner (Hunter Douglas World Hdqtrs.)
4 Independence Avenue
Tappan, New York 10983

ZBA # 07-119
Date: 12/ 5/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-119: Application of Hunter Douglas World Wide Headquarters for variances from Chapter 43, Section 3.12, OP zone, Column 12 (Building Height: 94' permitted, 120' proposed) and Section 6.41b (Loading Berths: 4 required, 2 proposed) for the construction of their World Headquarters Building.. The site is located abutting the New York/ New Jersey State Line, approximately 700 feet south on Veterans Memorial Drive, and 500 feet west of Blue Hill South Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 73.10, Block 1, Lot 6; OP zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 5, 2007 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Steven Bilheimer, Engineer, Keith Mock and Elizabeth Mahon, Architects appeared and testified.

The following documents were presented:

15. Architectural plans dated 10/18/07 signed and sealed by Keith H. Mock, Architect, (13 pages).
16. Site plan dated 10/30/07 by HDR Engineering not signed or sealed.
17. A memorandum dated September 26, 2007 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
18. Planning Board Decision # 07-43 dated October 10, 2007.
19. Zoning Board Decision #06-84 dated August 2, 2006.
20. A letter dated November 19, 2007 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
21. A memorandum dated November 14, 2007 from Ron C. Delo, P.E., Director, Department of Environmental Management and Engineering, Town of Orangetown.
22. A letter dated November 27, 2007 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
23. A letter dated June 20, 2007 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
24. Architectural plans dated 12/5/07 by Ballinger (9 pages).

Donald Brenner, Attorney, testified that he is happy to be here with the World Headquarters for Hunter Douglas; that they have already received a preliminary approval and SEQRA approval from the Planning Board; that the traffic issues were addressed with the Town with the Hovanian developers doing the traffic study when the Rockland State property is developed; that two hundred and fifty thousand dollars has been allotted for the traffic study; that this is a good tax ratable with minimal impact and a green building; and that he will turn this over to the architect to present the building.

Keith Mock, Architect, testified that the proposed building is seven stories and 82,000 sq. ft.; that it will accommodate 140 to 180 employees; that the site orientation off of Veterans Memorial Drive is such that the parking is in front of the building; that the building is set back toward the rear; that when seen in comparison to the Blue Hill building it is similar to the Blue Hill low rise building; that there is approximately 250 sq. ft. per person in the building; that only 50% of the available property is being used for the building; that at the location of the proposed two loading docks there is enough room for an additional two more to be added; that the building was placed close to the steep slope and the parking is proposed on the flat portion of the property; that they were very sensitive to the existing site; that they compared this site to surrounding sites with buildings and decided that it was best to go vertical with less land disturbance; that the New York/New Jersey border has a 100' residential buffer plus a 200' buffer; that the 60' wide part of the building is facing the residential area; it is less intrusive faced this way; that the building elevations are shown on the plan; that the height is perceived to be more like 74' because of the bermings and plantings; that the change in the grade brings the building to 124' further away from the residential area; that shadowing studies show that the shadows from the building do not leave the site; that there is no basement; that the building will be the first green building in Rockland County; that the top floor is the executive floor; that the ceiling height is yet to be determined but will most likely be slightly over 10'; that the atrium space is still being analyzed to evacuate smoke; and when that is done the ceiling height will be determined.

The Board has consented to the Planning Board as Lead Agency for SEQRA review purposes with respect to Hunter Douglas World Headquarters, 73.10/1/6; OP zone. . The

Planning Board declared itself Lead Agency on July 11, 2007 and made a Negative Declaration on that date.

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.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested building height and loading berth variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed berming at the roadway closest to the residential area , the added woodland buffer and the building orientation all minimize the impact of the proposed building.
2. The applicant has left enough room in the design of the building to add two more loading docks if it is necessary in the future.
3. The requested building height and loading berth variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
4. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested building height and loading berth variances 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.

The foregoing resolution to approve the application for the requested building height and loading berth variances was presented and moved by Ms. Castelli, seconded by Mr. Mowerson, and carried as follows: Mr. Sullivan, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, 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: December 5, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -L.P.

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

DECISION

**PERFORMANCE STANDARDS CONFORMANCE APPROVED with
CONDITIONS.**

To: Dan Mellin (Schreiner Medi Pharm)
500 Bradley Hill Road
Blauvelt, New York 10913

ZBA#07-120
Date: 12/5/07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-120: Application of Schreiner Medi Pharm pursuant to Section 4.1 and 10.334 for Use Subject to Performance Standards review with respect to the printing of labels used by the pharmaceutical industry. Premises are located at 300 Corporate Drive, Suite

10, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.18, Block 1, Lot 5; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, December 5, 2007, at which time the Board made the determination hereinafter set forth.

Dan Mellin, Brian Quinn, Attorney, Ben Werres and Ernst Kaschte appeared and testified and the following documents were presented:

1. Architectural plans labeled Schreiner Immobilien (4 pages) dated 8/14/07 by Architekten, not signed or sealed.
2. Site plan for 300 Corporate Drive, Blauvelt, NY.
3. Resume of Operations and Equipment dated September 12, 2007; revised copy must be submitted.
4. Short Environmental Assessment Form dated 9/12/07 signed by Bernhard Link.
5. Material Safety Data Sheets .
6. A brochure "Schreiner Forum Summer 2007".
7. Interdepartmental Memorandum from Michael B. Bettmann, Chief Fire Inspector, Bureau of Fire Prevention to the Zoning Board of Appeals dated 11/26/07 .
8. Correspondence from the Town of Orangetown Department of Environmental Management and Engineering to the Zoning Board of Appeals dated 12/3/07 signed by Ronald C. Delo, P.E., Director.
9. A memorandum dated September 21, 2007 from the County of Rockland Department of Health signed by Gregory Price, Public Health Engineer.
10. A memorandum dated November 13, 2007 from the County of Rockland Department of Planning.

Brian Quinn, Attorney, testified that This is a German Company that is coming to the states; that the company makes pharmaceutical labels; that they are printed on site; that this is a clean high tech usage.

Dan Mellin testified that the applicant has gone above and beyond the expectations of the involved agencies; that they eve installed explosion proof lights.

The Resume of Operations and Equipment, Fire Prevention Supplement and Short Environmental Assessment form were thereupon reviewed in detail.

The Board members made a personal inspection of the premises the week the before the hearing 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.

At the hearing on December 5, 2007, the Board determined that the proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Zoning Board of Appeals will have any significant involvement in the Performance Standards Conformance Review process, pursuant to Section 617.6 of

SEQRA. On motion by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Doherty, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; and Mr. Mowerson, aye, the Board declared itself as Lead Agency for Performance Standards Conformance Review. Mr. Sullivan was absent.

The Orangetown Zoning Board of Appeals, as Lead Agency, determined that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared. The reasons supporting this determination are as follows:

It will not have a significant impact upon the environment and a DEIS will not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels, drainage or existing traffic patterns. In addition, it will have no impact upon the aesthetics, agricultural or cultural resources of the neighborhood and no vegetation, fauna or wildlife species will be affected as a result of the proposed construction. The proposed action is consistent with the Town's Master Plan and will not have any adverse economic or social impacts upon the Town of Orangetown.

On motion by Mr. Mowerson, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Albanese, aye; and Ms. Castelli, aye, the Board made a Negative Declaration.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, Short Form Environmental Form, the letter of the Director of the Orangetown Department of Environmental Management and Engineering, the letter from Michael Bettmann, Orangetown Fire Inspector, the letter from Rockland County Department of Planning, the letter from the Rockland County Department of Health, 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 representative, the Board finds and concludes that conformance with the Performance Standards set forth in Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the 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 is **APPROVED** with the Specific **CONDITIONS** that (a) the applicant adhere to all of the requirements set forth by the Town Fire Safety Bureau, and (b) the applicant furnish the Board with written information setting forth the quantity, weight, size and type of containers being utilized in the storage of the materials listed as utilized on the premises and the manner of their disposal; (c) the applicant submit a revised performance standard form, short EAF and fire supplement as reviewed at the hearing; (d) the applicant shall obtain a wastewater discharge permit for non-domestic waste discharge from the Department of Environmental Management and Engineering; **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 these conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any buildings 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 the 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 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 does not constitute "substantial implementation for the purposes hereof.

The foregoing resolution to approve the application for Performance Standards Conformance Approval with Conditions was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Mr. Doherty, aye; Mr. Mowerson, aye; Ms. Albanese, aye; and 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: December 5, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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