

MINUTES
ZONING BOARD OF APPEALS
FEBRUARY 15, 2012

MEMBERS PRESENT: JOAN SALOMON
 PATRICIA CASTELLI
 DANIEL SULLIVAN
 NANETTE ALBANESE
 THOMAS WARREN, ALTERNATE

ABSENT: WILLIAM MOWERSON

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 Ms. Castelli, Acting Chairperson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

CLARKSTOWN HEATING & AIR SIGN 68.19/ 4 / 17; CO zone	APPROVED AS MODIFIED	ZBA#12-11
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JOVIAL INC. SILVER SAILS PAINTS PERFORMANCE STANDARDS 68.20 / 1 / 1./40 UNIT 38; LI zone	APPROVED WITH SPECIFIC CONITIONS	ZBA#12-12
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OTHER BUSINESS:

ZBA#11-97: Application of Bill Kolb Jr. Subaru Signs dated November 16, 2011:
The clerk explained to the Board that the applicant submitted revised plans with the modifications that were required by the Board in Decision #11-97: [(1) the lettering “Bill Kolb Jr.” on the north elevation of the building shall be reduced to 18”; (2) the words “Subaru” shall be removed from the side building with “Parts & Service”; (3) total square footage shall be 122.82]; However the square footage number was incorrect. The correct square footage number is 170.8 sq. ft.; the plan that the Board approved did not change and Mr. Sullivan made a motion to accept the approved plans with the changed sq. ft. of 170.8 sq. ft., which motion was seconded by Ms. Salomon and carried and follows: Mr. Warren, aye; Ms. Salomon, aye; Ms. Castelli, abstained, Ms. Albanese, abstained, and Mr. Sullivan, aye.

ADDITIONAL BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: **RESOLVED**, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Orangeburg Commons Amendment to Approved Site Plan; south side of Stevens Way,

Orangeburg, New York and identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 21; LO zone; Lamont Doherty Wireless Communication Facilities Site Plan, 61 Route 9W, Palisades, New York and identified on the Orangetown Tax Map as Section 80.10, Block 1, Lot 2; R-80 zone; Daikin America Parking Lot Expansion Site Plan, 20 Olympic Drive, Orangeburg, NY and identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 15, LIO zone; Tri Stated Floor Coverings Site Plan, 24 North Troop Road, Blauvelt, NY; 70.14/2/43; CS zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:30 P.M.

Dated: February 15, 2012

DECISION

SIGN AREA VARIANCE APPROVED AS MODIFIED

To: Clarkstown Heating & Air

ZBA # 12-11

95 Route 304

Date: February 15, 2012

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-11: Application of Clarkstown Heating and Air for variance from Chapter 43 (Zoning), Section 3.11, CO District, Column 5 #6 (Sign Area: Not to exceed 12 square feet; 25.5 sq. ft. existing and 78 sq. ft. proposed) for the installation of a new 52.5 sq. ft. sign at an existing business. The premises is located at 95 Route 304, Pearl River, New York an identified on the Orangetown tax Map as Section 68.19, Block 4, Lot 17; CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 15, 2012 at which time the Board made the determination hereinafter set forth.

George Hanken appeared and testified.

The following documents were presented:

1. A picture of the existing building with the existing sign and with the proposed sign overlaid on the building.
2. A drawing of the sign by sign-a-rama.
3. Eight color photographs of other signs in the vicinity.
4. A letter dated February 14, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, Commissioner of Planning.
5. A letter dated February 9, 2012 from the State of New York Department of

Transportation signed by Mary Jo Russo, P.E., Rockland County Permit Engineer.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, 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) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Warren, aye; and Ms. Castelli, aye; and Mr. Mowerson was absent.

George Hanken testified that the permitted 12 sq. ft. sign on a building that is 81 foot long would be much too small for the building; that they are proposing a sign that is approximately 14 feet long and 3 ½ feet high; that it is not a large sign to be placed on a building that is 81 feet long; that the business needs to be identified by a sign that easily seen while driving along state route 304; that they would like to keep the existing sign on the lower portion of the building because they do not want to have to repair the building when the letters are removed, but they will remove them in order to get the larger sign if they have to.

Public Comment:

No public comment.

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

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

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Ms. Albanese 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 sign area variance as modified will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to remove the existing 25.5 sq. ft. sign from the building, reducing the requested signage to 52.5 sq. ft. which is not unreasonable on a building that is 81 feet long situated on a four lane state highway.
2. The requested sign area variance as modified will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to remove the existing 25.5 sq. ft. sign from the building, reducing the requested signage to 52.5 sq. ft. which is not unreasonable on a building that is 81 feet long situated on a four lane state highway.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested sign area variance as modified, although substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and

welfare of the surrounding neighborhood or nearby community. The applicant has agreed to remove the existing 25.5 sq. ft. sign from the building, reducing the requested signage to 52.5 sq. ft. which is not unreasonable on a building that is 81 feet long situated on a four lane state highway.

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 sign area variance is APPROVED as Modified by the applicant's removal of the existing 25.5' sign that exists on the building and adding the proposed 52.5 sq. ft. sign; 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.

Ms. Salomon made a motion to override the letter dated February 14, 2012 from the County of Rockland Department of Planning and to amend the application so as to review the new proposed sign at 52.5 sq. ft. only; stating that the proposed larger sign would improve the efficient flow of traffic along the state highway because it would be more

visible and cars would not slow down looking for the establishment; which motion was seconded by Ms. Albanese and carried unanimously.

The foregoing resolution to approve the application for the requested sign area variance as modified to one proposed new 52.5 sq. ft. sign and the removal of the existing 25.5 sq. ft. sign on the building was presented and moved by Ms. Salomon, seconded by Mr. Sullivan and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Warren, aye. Mr. Mowerson was absent.

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

DATED: February 15, 2012

DECISION

§ 4.1 PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Donald Brenner (Jovial Inc.)

ZBA # 12-12

4 Independence Avenue
Tappan, New York 10983

Date: February 15, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-12: Application of Jovial Inc. Silver Sails Paints for Performance Standards Review, Chapter 43 (Zoning), LI District, Section 4.1, for the storage and distribution of automobile refinishing paints. The premises are located at 6 Dexter Plaza, Unit 38, Pearl River, New York and identified on the Orangetown tax Map as Section 68.20, Block 1, Lot 1./40 unit 38; LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, February 15, 2012 at which time the Board made the determination hereinafter set forth.

John Ng, Lawrence Wagreich, Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plans of the building showing interior subdivision.
2. Material Safety Data Sheets.
3. Use Subject to Performance Stands Resume of Operations and Equipment form dated January 5, 2012.
4. Fire Prevention Supplement.
5. A letter dated February 14, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
6. A letter dated January 13, 2012 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
7. Two letters dated January 11, 2012 and February 2, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
8. A letter dated February 3, 2012 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.

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

On advice of Dennis Michaels, 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) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Ms. Castelli, aye. Mr. Mowerson was absent.

Donald Brenner, Attorney, testified that this application was part of the Meile Subdivision plan that appeared before the Planning Board; that they have answered Mike Bettmann's letter as part of that internal subdivision application; that the applicant rents space from Meile; that nothing is manufactured at the site; that automobile paint is imported from China and distributed from this site.

John Ng testified that the paints come in on pallets and in boxes and are separated into orders and shipped all over the country; that they are moving to this site from Bergenfield, New Jersey; and that they have one hand truck, two pallet jacks and one propane fork lift.

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. Albanese and carried unanimously.

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 the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated February 3, 2012 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated February 2, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.), the letter dated January 13, 2012 from Scott Mc Kane, P.E., Senior Public Health Engineer, County of Rockland Department of Health, the letter dated February 14, 2012 from Thomas Vanderbeek, Commissioner of Planning, County of Rockland Department of Planning, 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 Zoning 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 Orangetown Office of Building, Zoning & Planning Administration & Enforcement, 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 presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town

of Orangetown B.F.P., letter dated February 2, 2012; 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 Approval, 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 Approval, 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, performance standards approval, 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 Review, 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 Zoning Code § 4.1 Performance Standards was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Ms. Salomon, aye. Mr. Mowerson was absent.

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

DATED: February 15, 2012

