

MINUTES
ZONING BOARD OF APPEALS
MARCH 16, 2011

MEMBERS PRESENT:

JOAN SALOMON
NANETTE ALBANESE
PATRICIA CASTELLI

ABSENT:

WILLIAM MOWERSON
DANIEL SULLIVAN

ALSO PRESENT:

Dennis Michaels, Esq.	Deputy Town Attorney
Rita Fertel,	Official Stenographer
Deborah Arbolino,	Administrative Aide

This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting Chair.

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:

PLOWE 78.18 / 1 / 10; R-80 zone	POSTPONED	ZBA#11-17
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NEW ITEMS:

HIBERNIAN HOUSE HANDICAP ACCESS 68.16 / 1 / 21; CS zone	FRONT YARD, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED WITH CONDITION	ZBA#11-20
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BAKKER ZBA#11-21 70.06 / 1 / 1.10; R-40 zone	POSTPONED	
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COZZA 78.13 / 1 / 3.12; R-40 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#11-22
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ALUF PERFORMANCE STANDARDS 70.18 / 2 / 15; LI zone	AUTOMATED EQUIPMENT PERFORMANCE STANDARDS APPROVED	ZBA#11-23
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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: "What's Shakin" Conditional Use Permit, 60 Dutch Hill Road Orangeburg., N.Y., 74.10 / 1/ 70; CO 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 9:00 P.M.

Dated: March 16, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DECISION

**FRONT YARD, SIDE YARD, TOTAL SIDE YARD VARIANCES APPROVED
WITH SPECIFIC CONDITION**

To: Phil Sheridan (Hibernian House)

ZBA # 11-20

28 Railroad Avenue
Pearl River, New York 10965

Date: March 16, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11- 20: Application of Hibernian House for variances from Chapter 43 (Zoning), Section 3.12, CS District, Group FF, Columns 8 (Front Yard: 0' or 45' permitted, 7.5' proposed), 9 (Side Yard: 0' or 12' required, .5' proposed), and 10 (Total Side yard: 0' or 25' required, 1.5' proposed) for the installation of a chairlift for handicap access to the second floor. The site is located at 28 Railroad Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 21; CS zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 16, 2011 at which time the Board made the determination hereinafter set forth.

Phil Sheridan, Corporate President, and Joseph Moran, Engineer, appeared and testified.

The following documents were presented:

1. Drawings for handicap access signed and sealed by Joseph John Moran, P.E.
2. Survey with a revision date 10/6/80 signed and sealed Gerald Lynn, L.S.

Ms. Castelli 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. Catelli 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: Ms. Albanese, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Mowerson and Mr. Sullivan were absent.

Phil Sheridan testified that the Hibernian's are a charitable organization; that the building is two stories; that they are proposing to add a handicap lift to enable patrons in wheelchairs access to the second floor of the building; that they do a lot of work with Venture, Catholic Charities and other charitable organizations; that they really need to make the building accessible for wheel chairs; that they will be bumping out a corner of the building that is level, no ramp will be required; that the proposed enclosure will not extend past the existing brick wall; that the shed in the rear of the lot is used by the Rockland County Pipe Band to store some of their equipment; that the air conditioning units will be relocated and that the sheds in the front yard can be moved out of the front yard.

Joseph Moran, Engineer, marked the plans showing the sheds in the front yard that will be relocated out of the front yard.

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 front yard, side yard, and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Handicap access to the building cannot be achieved by any other means.
2. The requested front yard, side yard, total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Handicap access to the building cannot be achieved by any other means.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard, side yard and total side yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Handicap access to the building cannot be achieved by any other means.
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 front yard, side yard and total side yard variances are APPROVED with the SPECIFIC CONDITION that the accessory structures in the front yard be relocated out of the front yard; 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 front yard, side yard and total side yard variances with the specific condition that the existing accessory structures in the front yard be relocated out of the front yard was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; and Ms. Salomon, aye. Mr. Mowerson and Mr. Sullivan were 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: March 16, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Keith and Kelli Cozza

ZBA # 11-22

9 Kopac Lane
Palisades, New York 10964

Date: March 16, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-22: Application of Keith and Kelli Cozza for a variance from Chapter 43 (Zoning), Section 3.12, R-40 District, Group E, Columns 4 (Floor Area Ratio: .15 permitted, .162 proposed) for the installation of a pool/spa and cabana at an existing single-family residence. The premises are located at 9 Kopac Lane, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.13, Block 1, Lot 3.12; R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 16, 2011 at which time the Board made the determination hereinafter set forth.

Marc Comito, Contractor, Robert Hoene, Architect, and Jay Greenwell, Land Surveyor, appeared and testified.

The following documents were presented:

1. Vicinity map.
2. Site Development plan dated 4/21/10 with the latest revision date of 1/05/11 signed and sealed by Jay Greenwell, PLS.
3. Architectural plans dated 01/13/11 with the latest revision date of 01/31/11, labeled New Pool Cabana Lot #12 Kopac Lane by Robert Hoene, Architect.

Ms. Castelli 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) (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. Mowerson and Mr. Sullivan were absent.

Jay Greenwell, Land Surveyor, testified that the house is presently under construction; that the Cozza's knew that they wanted to install a pool, when they purchased the property; that they have decided to apply for the pool and the cabana while the house is being constructed; that the bulk table for this subdivision deducts 50% of the area that has the gas transmission line easement through the property; that the lot is substantially larger than the required 40,000 sq. ft.; that the lot is 56, 210 sq. ft.; that if they did not have to deduct the 50% for the gas easement, the proposed floor area ratio would be .143 which would not require a variance; that they could go back to the Planning Board for clarification of this deduction but rather than going that route which would or could take much longer, they have decided to ask for the minor relief that they need for a floor area ratio of .162; that the perception on Kopac Lane will not be substantial because the lot is large; that the transmission easement and conservation easement will not be built on; that the cabana is fifteen feet from the house and the pool is thirteen feet from the house; that the structures would not be intrusive; and that this seemed like the more expedient route.

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. 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. The requested floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools and cabanas have been constructed in the area and this lot would not require a floor area ratio variance except that the filed subdivision map has a required lot area deduction as a result of the existence of the natural gas line easement.
2. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar pools and cabanas have been constructed in the area and this lot would not require a floor area ratio variance except that the filed subdivision map has a required lot area deduction as a result of the existence of the natural gas line easement.
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 floor area ratio variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar pools and cabanas have been constructed in the area and this lot would not require a floor area ratio variance except that the filed subdivision map has a required lot area deduction as a result of the existence of the natural gas line easement.
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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio 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 floor area ratio variance was presented and moved by Ms. Albanese, seconded by Ms. Albanese and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye. Mr. Mowerson and Mr. Sullivan were 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.

DECISION

PERFORMANCE STANDARDS FOR AUTOMATED EQUIPMENT APPROVED WITH CONDITIONS

To: Donald Brenner (Aluf Plastics)

ZBA # 11-23

4 Independence Avenue
Tappan, New York 10983

Date: March 16, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-23: Application of Aluf Plastics for Performance Standards as per §4.12 of Chapter 43 (Zoning) of the Code of the Town of Orangetown for automation equipment for existing machinery. The premises is located at 3 Glenshaw Street, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 70.18, Block 2, Lot 15; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 16, 2011 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Bart Rodi, Engineer, appeared and testified.

The following documents were presented:

1. Floor plan dated June 23, 2006 with the latest revision date of January 11, 2011 signed and sealed by Bart Rodi, P.E.
2. Fanuc Robot M-410iB (9 pages).
3. Use Subject to Performance Standards and Fire Prevention Supplement.
4. A memorandum dated May 14, 2011 from the County of Rockland Department of Planning.
5. A letter dated February 22, 2011 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
6. A letter dated March 1, 2011 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.

On the 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 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. Salomon and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Mowerson were absent

Donald Brenner, Attorney, testified that the proposal is for automation equipment; that some of the Board members visited the plant over the week-end and could see the intention of the proposal; that this equipment will eliminate the need of processing to the pallets by hand; that the automated process will allow the worker to do other more productive work; and that this proposal doesn't produce noise, emit heat, cold, dampness, glare, electrical disturbances or radioactivity; that the only change in the plant is that the machines used have to be aligned slightly to accommodate the robot.

Bart Rodi, Engineer, testified that they are proposing to use this robot on one of the existing production lines; that the company makes four different kind of plastic bags; that the conveyor and this robot will weigh and label each box and place them on pallets and a worker will load the pallets into the trucks with a forklift; that this will eliminate a person counting and labeling each box; that this process should speed the process along; that it will also be more accurate; that Aluf has not laid anyone off in 15 years; that they did lose four people to retirement that they have not replace.

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

The Board members made a personal inspection 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. Based upon the information contained in applicants' Resume of Operations and

Equipment, the Fire Prevention Supplement, the letter dated March 1, 2011 from the County of Rockland Sewer District No.1; the letter dated February 22, 2011 from the County of Rockland Department of Health; 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 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 the amendment to the Performance Standards 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 compliance with Performance Standards (Zoning Code § 4.12 for automated equipment) was presented and moved by Ms. Castelli, seconded by Ms. Salomon, and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; and Ms. Albanese, aye. Mr. Sullivan and Mr. Mowerson were 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: March 16, 2011

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

