

MINUTES
ZONING BOARD OF APPEALS
MAY 18, 2011

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

ABSENT: NONE

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

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

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:

155 CORPORATE DRIVE 73.15 / 1 / 18 & 73.19 / 1 / 1; LIO zone	CONTINUED	ZBA#10-92
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NEW ITEMS:

DELPONTE 77.11 / 2 / 42; R-15 zone	SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#11-32
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BEREZIN GOLDBERG 71.13 / 1 / 36; R-22 zone	§6.332 DRIVEWAY GRADE VARIANCE APPROVED	ZBA#11-33
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COMITO CONSTRUCTION 78.13 / 1 / 3.4; R-40 zone	FLOOR AREA RATIO, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#11-34
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REVOLUTION TATTOO COMPANY 68.20 / 1 / 41; CS zone	§3.11 COLUMN 3 #8 SPECIAL PERMIT APPROVED WITH CONDITIONS	ZBA#11-35
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RENOTECH INTERIORS PERFORMANCE STANDARDS 77.15 / 3 / 18; LIO zone	PERFORMANCE STANDARDS APPROVED WITH CONDITIONS	ZBA#11-36
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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 11:00 P.M.

DECISION

SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Richard and Linda Delponte

ZBA # 11-32

1 Paul Court
Tappan, New York 109

Date: May 18, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-32: Application of Richard and Linda Delponte for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20 required, 11.9' existing, 10' proposed), and from Section 5.227 (Required Rear Yard for pool: 20' required, 6' proposed) for the installation of an in-ground pool at an existing single family residence. The premises are located at 1 Paul Court, Tappan, New York and are identified on the Orangetown tax Map as Section 77.11, Block 2, Lot 42; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2011 at which time the Board made the determination hereinafter set forth.

Richard Delponte appeared and testified.

The following documents were presented:

1. Survey of property with hand drawing of pool placement.
2. Pool sections for Anthony Sylvan Pools signed and sealed by Stephen Pany P.E.
3. A letter dated April 11, 2011 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter with one page attachment dated May 4, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
5. A letter dated April 29, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
6. Three letters from abutting property owners in support of the application.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Richard Delponte testified that he would like to install an in-ground pool in his backyard; that he has a pie-shaped piece of property; that he is proposing to place the pool closer to the fence in the rear because he does not want it too close to the house because he has

kids; that he has a corner lot with two front yards; that the pool is being built by Anthony Sylvan and shaped to fit into the yard; that if the pool were moved to the right it would be in the sight easement for Washington Avenue and also in the front yard; that there is also a road widening easement on the property; that he has owned the house for 11 years and has two children aged 11 and 10; and that he would draw the existing shed on the plot plan and date it.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is a corner lot with two front yards and a road widening easement and sight distance easement; since no structures can be built in easements, the placement of the pool in this area of the yard is acceptable.
2. The requested side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is a corner lot with two front yards and a road widening easement and sight distance easement; since no structures can be built in easements, the placement of the pool in this area of the yard is acceptable.
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 side yard and rear yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. The property is a corner lot with two front yards and a road widening easement and sight distance easement; since no structures can be built in easements, the placement of the pool in this area of the yard is acceptable.
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 side yard and rear yard variances are **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 side yard and rear yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: May 18, 2011

DECISION

SECTION 6.332 DRIVEWAY GRADE VARIANCE APPROVED

To: Marc Berezin

ZBA # 11-33

67 Tweed Boulevard
Upper Grandview, New York 10960

Date: May 18, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-33: Application of Berezin Goldberg Site Plan for a variance from Chapter 43 (Zoning), Section 6.332, (Driveway Grade: not to exceed 10%; 18% slope proposed) for a new driveway at a new single-family residence. The premises are located at 67 Tweed Boulevard, Upper Grandview, New York and are identified on the Orangetown Tax Map as Section 71.13, Block 1, Lot 36; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2011 at which time the Board made the determination hereinafter set forth.

Marc Berezin, Tom Skrable, P.E., and Bill Bosley, contractor, appeared and testified.

The following documents were presented:

1. Site plan dated 11/23/10 signed and sealed Thomas W. Skrable, P.E.
2. Architectural plans dated 2/23/11 signed and sealed by Kier B. Levesque, Registered Architect.
3. A memorandum dated March 23, 2011 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
4. Planning Board Decision #11-10 dated March 23, 2011.
5. A letter dated May 4, 2011 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.
6. A letter dated May 9, 2011 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning.

Mr. Mowerson 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, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms.Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Mark Berezin testified that he thought he was going to be renovating his kitchen and in the process found out that the house was rotted out on the river side and was full of black mold; that the house had to be torn down and rebuilt; that they are re-designing the house with a new septic system; that the attached garage to the house is important because they have three children ages 10, 8 and 3; and carrying in the kids stuff would be much more convenient with an attached garage.

Tom Skrable, Engineer, testified that the present profile for the driveway reflects the requests made from the County of Rockland Highway Department; that they want a 3% grade at the entrance of the driveway which is causing the grade midway down the driveway to increase to 18%; that the requirements for the septic system fields have changed since the old house was built and they are using the flat area that previously held the detached garage; that the fields have to be bigger to meet the health department requirements and this is the only place to put the new septic system; that they did do test holes on the south end of the property and shallow holes hit rock; that they can't change the elevation of the house; and this is the best placement for the driveway entrance as far as sight distance goes; that if it were moved south the driveway would be shorter and steeper; that if it were moved north to gain 3% grade the sight distance would be awful.

Bill Bosley testified that he met with the Fire Department and they have no problem with the placement or the grade of the driveway because they would park on Tweed to fight a fire.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested driveway grade variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar driveways have been constructed in the area.
2. The requested driveway grade variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar driveways have been constructed in the area.
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 driveway grade variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar driveways have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

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

DATED: May 18, 2011

DECISION

FLOOR AREA RATIO, SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED

To: Marc Comito

ZBA # 11-34

P.O. Box 300

Date: May 18, 2011

West Nyack, New York 10994

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-34: Application of Marc Comito for variances from Chapter 43 (Zoning), Section 3.12, R-40 District, Group E, Columns 4 (Floor Area Ratio: .15 permitted, .16 proposed), 9 (Side Yard: 30' required, 20' proposed) and 12 (Building Height: 13.4' permitted, 18.5' proposed) for a detached three-car garage at an existing single-family residence. The premises are located at 8 Kopac Lane, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.13, Block 1, Lot 3.4; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2011 at which time the Board made the determination hereinafter set forth.

Marc Comito, Jay Greenwell, L.S., and Michael Shanahan, contract purchaser, appeared and testified.

The following documents were presented:

1. Site plan dated 02/29/2011 signed and sealed by Jay Greenwell, PLS.
2. Architectural plans dated 01/26/2011 with the latest revision date of 03/02/2011 signed and sealed by Robert Hoene, Architect.
3. A letter dated May 10, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
4. A letter dated April 18, 2011 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated May 16, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
6. A letter dated May 17, 2011 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
7. Four pictures of similar structures on Closter Road, .44 miles from proposal.
8. A letter in support of the application by an abutting property owner.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Jay Greenwell, Land Surveyor testified that the house was built as a spec house and Mr. Shanahan is interested in purchasing the house but would like to add the additional detached garage to meet his needs; that this location was chosen for the garage to make it line up with the lines of the house and to make entrance/exit direct; that they could push the garage over two feet to make the side yard 24' which would increase the allowable building height to 16' but not change the request for 18.5'.

Michael Shanahan testified that there are five members of his family; that presently only two drivers but they have four vehicles; that he would like to have indoor parking for all of the vehicles year round; that the detached three car garage fits in more the existing house and neighborhood than a detached two car garage; that the garage was designed to compliment the existing house; that he has pictures of other detached garages from Closter Road; that there are no other detached garage structures on Kopac Lane; and that he would like the extra space for storage.

Marc Comito testified that the roof pitch on the proposed garage matches the roof pitch on the existing house; and that the house is 5,000 sq. ft..

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested floor area ratio (.16), side yard (24') and building height (18.5') variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. The requested floor area ratio (.16), side yard (24') and building height (18.5') variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio (.16), side yard (24') and building height (18.5') variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio, side yard and building height variances are **APPROVED** as modified; 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 (.16), side yard (24') and building height (18.5') variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: May 18, 2011

DECISION

§3.11 COLUMN 3 #8 SPECIAL PERMIT APPROVED

To: Michael Oherien Jr. (Revolution Tattoo)

ZBA # 11-35

5 Hillcrest Avenue
Montvale, New Jersey 07645

Date: May 18, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-35: Application of Revolution Tattoo Company for a Special Permit from Chapter 43 (Zoning), Section 3.11, Column 3 #8 (Other retail/ services) for a new Tattoo/Art Studio.. The premises are located at 58 South Main Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 41; in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2011 at which time the Board made the determination hereinafter set forth.

Michael Oherien appeared and testified.

The following documents were presented:

1. Floor plan of the space at 58 South Main Street, Pearl River.
2. Booklet with pictures of tattoos and Article XVI Rockland County Sanitary Code.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7) ; 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. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Michael O'Herien testified that he would like to open a tattoo shop at 58 S. Main Street, Pearl River, that the service is not offered in Pearl River; that he recently sold his business in Guttenberg, New Jersey and purchased a house in Montvale, New Jersey; that the closest tattoo shop in the area is in Nanuet and there are two other shops in Nyack;; that he has a client base and so does the other artist that will be working with him; that he has been doing tattoos since 2003 when he left the air force; that the hours of operation would be from noon to 8:00 P.M Monday through Thursday, noon to 10:00 P.M. on Friday and Saturday and if they open on Sunday the hours would be 2:00 P.M. to 5:00 P.M.; that they average between three and ten people per day depending on the type of tattoo; that he has been working out of a friends studio until the variance issue is resolved; that he has submitted the Rockland County sanitary code for the Board's information; that no one under 18 years of age can be tattooed; and that the shop is located between a computer store and Flemings Place.

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. Castelli and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the proposed special permit use will not adversely affect the character or property values in the area, and will not impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town, for the following reasons:

The requested Section 3.11 Column 3 #8 Special Permit use (tattoo business) meets all of the pertinent applicable requirements set forth in (Zoning) Section 4.31 for the granting of a special permit under Zoning Code §10.333, as more specifically described below:

1. The proposed Special Permit Use will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
2. The proposed Special Permit Use will not cause undue traffic congestion or create a traffic hazard.
3. The proposed Special Permit Use will not create at any point of determination set forth in §§ 4.16, 4.17 and 4.18 any more dangerous and objectionable elements referred to in § 4.11 than is characteristic of the uses expressly permitted as of right in the same district.
4. The proposed Special Permit Use will comply with all other regulations applicable to such use.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the Zoning Code § 10.333 application for the requested

Section 3.11 column 3 #8 Special Permit Use is APPROVED with the following hours of operation: Monday thru Thursday noon to 8:00 P.M., Friday 7 Saturday noon to 10:00 P.M. and possibly Sunday 2:00 P.M. to 5:00 P.M.; 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 Zoning Code § 10.333 application for the requested Section 3.11 Column 3 #8 Special Permit Use was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, abstained; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: May 18, 2011

DECISION

PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Lisa Mercurio (Renotech Interiors)

ZBA # 11-36

11 Chester Avenue
Congers, New York 10920

Date: May 18, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-36: Application of Renotech Interiors for Performance Standards Review, Chapter 43 (Zoning), Section 4.1, for cutting and assembly of pre-manufactured partition walls. The business is located at 238 Oak Tree Road, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.15, Block 3, Lot 18; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 18, 2011 at which time the Board made the determination hereinafter set forth.

Lisa Mercurio and Jonathon Scott appeared and testified.

The following documents were presented:

1. Renotech Interior Equipment Plan dated February 9, 2011 by Eric Knute Osborn, Architect,
2. Thirteen page owner's manual for Oneida Air Systems 5 & 7.5 Direct Drive Cyclonic Dust Collector.
3. Five pages of Material Safety Data Sheets.
4. Use Subject to Performance Standards Resume of Operations and Equipment form.
5. Fire Prevention Supplement.
6. A letter dated April 13, 2011 from County of Rockland Department of Health signed by Gregory Price, P.E.
7. A letter dated April 20, 2011 from Scott Burton, Director, Department of Environmental Management and Engineering, Town of Orangetown.
8. A memorandum dated May 18, 2011 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
9. A letter dated April 29, 2011 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning,

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); 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. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Lisa Mercurio testified that the company designs and assembles metro wall aluminum and glass partitions for offices; that they cut and assemble aluminum extrusions and glue laminated panels; that the dust collector used is self-contained and collects everything that is bagged for private garbage removal; that there is no dust let out into the air; that the aluminum bits are recycled; and that they will meet all of the requirements of the fire inspector.

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 April 20, 2011 from Scott Burton, Director of the Orangetown Department of Environmental Management and Engineering concluding there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated May 18, 2011 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown, the letter dated April 13, 2011 from Gregory Price, P.E., Public Health Engineer, 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 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, letter dated May 18, 2011 and the letter dated April 13, 2011 from Gregory Price, P.E., Public Health Engineer, Rockland County Department of Health ; **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 Zoning Code § 4.1 Performance Standards was presented and moved by Mr. Mowerson, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: May 18, 2011

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By _____
Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR

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

