

MINUTES
ZONING BOARD OF APPEALS
MAY 2, 2012

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

ABSENT: MICHAEL BOSCO, ALTERNATE

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

POSTPONED ITEM:

568 ROUTE 303
70.14 / 4 / 19; LO zone

INTERPRETATION GRANTED ZBA#12-26
WITH SPECIFIC CONDITIONS
REQUEST FOR OVERNIGHT
STORAGE OF VEHICLES WITHDRAWN
NO OUTDOOR STORAGE UNLESS WITHIN
COMPLETELY ENCLOSED BUILDINGS

NEW ITEMS:

MCKEEVER
69.09 / 3 / 30; 5-15 zone

FLOOR AREA RATIO, ZBA#12-27
AND FRONT YARD VARIANCES APPROVED

AALBORG GENERATOR
PERFORMANCE STANDARDS
73.19 / 1 / 3; LIO zone

§4.1 PERFORMANCE STANDARDS ZBA#12-28
FOR EMERGENCY GENERATOR
APPROVED WITH CONDITIONS

ONE RAMLAND ROAD
PERFORMANCE STANDARDS
73.20 / 1 / 24; LIO zone

§4.1 PERFORMANCE ZBA#12-29
STANDARDS FOR EMERGENCY
GENERATORS APPROVED WITH
CONDITIONS: CHILLER REVIEW
WITHDRAWN

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: Chromalloy, employee entrance turnstile site plan; 330 Blaisdale Road, Orangeburg,

N.Y. 73.20 / 1 / 1; LIO zoning district; Palisades Free Library Site Plan, 19 Closter Road, Palisades, N.Y.; 78.17 / 2 / 22; R-40 zoning district; Parseghian Site Plan, 594 Route 303, Blauvelt, N.Y., 70.10 / 3 / 18; CC zoning district; 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.

DECISION

INTERPRETATION GRANTED WITH SPECIFIC CONDITIONS

To: Bruce Rogers (568 Route 303)

ZBA # 12-26

100 Dutch Hill Road
Orangeburg New York 10962

Date: May 2, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-26: Application of 568 Route 303 for a variance from Chapter 43 (Zoning), Section 3.11, Column 2 (Use not permitted by right) for the outdoor storage of landscape equipment and overnight storage of vehicles. Applicant is requesting an interpretation. The premises are located at 568 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.14, Block 4, Lot 19 in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 2, 2012 at which time the Board made the determination hereinafter set forth.

Bruce Rogers, Attorney, Terry Ratnecht, property owner, and Steven DeLucia, owner of D & D Landscaping, appeared and testified.

The following documents were presented:

1. Copy of site plan with hand drawn parking and equipment storage on it.
2. A letter dated April 30, 2012 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. Salomon 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) (31); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Bruce Rogers testified that the application is before the Board in order to obtain a

certificate of Occupancy for the office that being occupied by D & D Landscape; that when D & D Landscape applied to put a sign outside to establish the location of the business office, they were denied; that they were told that the use was not permitted by right; that they argue that the office is a business office for a landscape company; that they are withdrawing the request for overnight parking; that the scaffolding material in the back, the firewood and the trailer belong to the property owner; that the firewood is being donated to Piermont for the Memorial Fires and they will be picking up the wood in a couple of weeks; that the trailer is being removed from the property as soon as a crane can be ordered; that the scaffolding material belongs to the property owner and is used in his business; that part of the property is leased to a cell tower company; that the plows belonging to the landscape company can be moved into the existing garage; that the cell tower and Integrated Wireless Alliance have certificate of occupancies; that they would like the Board to agree that the office for the landscape company falls into the category of Business/Professional offices and that the storage is accessory to the landscape business.

Terry Ratnecht testified that he has a certificate of occupancy for his business, Integrated Wireless Alliance; that he is removing the trailer in the rear of the property as soon as he can get a crane back there to move it; that the scaffolding material belongs to his business; and that the firewood is being donated to Piermont for the bonfire and should be removed from the property shortly.

Steven Del Lucia, D & D Landscape, stated that the office is used for setting up appointments, paying bills, computer work and other paper work associated with the company; that there is one full time person in the office; that they do not mow lawns; that the company does landscaping plans; that they do they have perennials on the site that are in pots for upcoming jobs; that the woodchips are on the property; that the pavers were stored over the winter because they were leftovers from previous jobs; that they can store the tools in a shed ; that the plants cannot be stored inside; that they have ten employees; that construction materials are delivered to each job site; and that employees come into the office to get assignments and then proceed to the various jobs.

Public Comment:

Matthew Olson, 92 Moison Road, Blauvelt, testified that his property overlooks this property; that he is tired of looking at the mess on the lot; that the trailer is a mess; that there is a lot of scaffolding on the lot; that there is debris all over the trailer that there is landscape material and equipment on the site and all of it should be cleaned up.

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 Mr. Sullivan 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 for the following reasons:

1. The Board finds that the office portion of the building used for D & D Landscape is a Business/Professional Office which is used by one employee to schedule jobs and appointments, answer phones, process billing and keep computer records.
2. The applicant has withdrawn the request for the overnight motor vehicle parking variance.
3. The applicant is not requesting, nor is the Zoning Board of Appeals reviewing, approval of the property owner's (Terry Ratnecht/ I.W.A. [Integrated Wireless Alliance]) outdoor storage of equipment, tools, materials, and motor vehicles (if

- any).
4. All materials, supplies and equipment used in conjunction with D & D Landscaping must be stored within completely enclosed buildings.
 5. A use variance is not required, and the Board reverses the decision, interpretation and/or determination of John Giardiello, P.E., that required a use variance

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the Board interpretation seeking reversal of John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, decision, interpretation and/or determination that a use variance is required is APPROVED (i.e., a use variance is not required); 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 the Board interpretation seeking reversal of John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, decision, interpretation and/or determination that a use variance is required is APPROVED (i.e., a use variance is not required); was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Mr. Sullivan, 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.

DECISION

FLOOR AREA RATIO AND FRONT YARD VARIANCES APPROVED

To: Mr. Larry McKeever

ZBA # 12-27

43 Meadows Street

Date: May 2, 2012

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-27: Application of Larry McKeever for variances from Chapter 43 (Zoning), R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .23 proposed), and 7 (Front Yard: 30' required, 28' existing) for an addition to an existing single-family residence. The premises are located at 43 Meadows Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 30; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 2, 2012 at which time the Board made the determination hereinafter set forth.

Donald Brenner and Veronica McKeever appeared and testified.

The following documents were presented:

1. Copy of survey dated 9/21/1953.
2. Architectural plans dated 3/5/2012 with the latest revision date of 3/30/2012 by Michael Shilale Architects.

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. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Donald Brenner, Attorney testified that Mr. McKeever suffered a stroke and fell breaking his neck; that he is a paraplegic from this incident; that he has been in a County facility recovering and is ready to come home; that the house is an older home with small rooms and needs to be modified to accommodate Mr. McKeever; that a ramp will be added to the south side of the driveway in the rear of the house; that a handicap accessible bathroom and bedroom are being added to the house; that the lot is undersized; that the front yard is an existing condition and the floor area ratio request is small.

Veronica McKeever testified that the new bedroom and bathroom will be barrier free as well as the living room; that the rest of the house will not be barrier free; that cost is an issue; and that her husband is anxious to come home.

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 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 and front yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The house was originally zoned RG and the zoning was change to R-15, which is more restrictive and the lot is undersized. There is no change proposed for the front yard and the addition must be constructed as proposed to be barrier free.
2. The requested floor area ratio and front yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The house was originally zoned RG and the zoning was change to R-15, which is more restrictive and the lot is undersized. There is no change proposed for the front yard and the addition must be constructed as proposed to be barrier free.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The house was originally zoned RG and the zoning was change to R-15, which is more restrictive and the lot is undersized. There is no change proposed for the front yard and the addition must be constructed as proposed to be barrier free.
4. The requested floor area ratio and front yard variances are not substantial.
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 and front 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 floor area ratio and front yard variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Mr. Sullivan, 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.

DECISION

§ 4.1 PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: T.J. Baan (Aalborg Generator)

ZBA # 12-28

3 Cobblestone Drive
Upper Saddle River, New Jersey 07458

Date: May 2, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-28: Application of Aalborg Instruments for Performance Standards Review Pursuant to Section 4.1 and 10.334 (Chapter 43 Zoning) for Use Subject to Performance Standards review with respect to an emergency generator. Premises are located at 20 Corporate Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.19, Block 1, Lot 3; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 2, 2012 at which time the Board made the determination hereinafter set forth.

Richard Neely and Teborg Baan appeared and testified.

The following documents were presented:

1. Plans labeled "Design for EM Generator Aalborg Instruments" dated March 1, 2012 with the latest revision date of March 8, 2012 signed and sealed by James Dutko, P.E..
2. Site plan dated March 1, 2012 with the latest revision date of March 6, 2012 not signed or sealed by James Dutko, P.E..
3. Material Safety Data Sheets.
4. Use Subject to Performance Standards Resume of Operations and Equipment form.
5. Fire Prevention Supplement.
6. A memorandum dated March 12, 2012 from the County of Rockland Department of Planning.
7. A letter dated March 21, 2012 from the County of Rockland Department of Health signed by Gregory Price, P.E., Public Health Engineer.
8. A letter dated March 28, 2012 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
9. A letter dated April 12, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
10. A letter dated April 12, 2012 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.

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

Richard Neely testified that the generator is for emergency use only and went over the Performance Standards Resume with the Board.

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 12, 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 April 12, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.), the letter dated March 21, 2012 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 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 April 12, 2012 and the requirements set forth by Gregory Price, P.E., Public Health Engineer, County of Rockland Department of Health in his letter dated March 21, 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 Mr. Mowerson seconded by Ms. Albanese 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.

DECISION

§ 4.1 PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Donald Brenner(One Ramland Road Generator)

ZBA # 12-29

4 Independence Avenue
Tappan, New York 10982

Date: May 2, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-29: Application of One Ramland Road for Performance Standards Review Pursuant to Section 4.1 and 10.334 (Chapter 43 Zoning) for Use Subject to Performance Standards review with respect to emergency generators and Chillers. Premises are located at 1 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 24; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 2, 2012 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Jay Greenwell, L.S., Martin Schiff, LEED AP, Jonathan Lally, Lally Acoustical Consulting, appeared and testified.

The following documents were presented:

1. Site plan labeled “Site Development Plan for Ramland Holdings, LLC.” Dated February 10, 2012 with the latest revision date of April 10, 2012 signed and sealed by Jay A. Greenwell, L.S..
2. Chiller information.
3. Generator Acoustical information.
4. Primary Switch Substation B Drawings.
5. Material Safety Data Sheets.
6. Use Subject to Performance Standards Resume of Operations and Equipment form.
7. Fire Prevention Supplement.
8. A letter dated April 30, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
9. A letter dated March 21, 2012 from the County of Rockland Department of Health signed by Gregory Price, P.E., Public Health Engineer.
10. A letter dated April 13, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
11. A letter dated April 24, 2012 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.

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. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Donald Brenner testified that this is a very large building that has been empty for last four years; that the building is going to be used for data processing systems; that this type of use can not be interrupted; that the generators are necessary in order to provide un-interrupted service in case of a power shortage; that the generators would be used for emergency use only; that the chillers are being relocated to the roof and will not need performance standards review; that the generators will be tested every week for between a half and one hour; that the noise level will meet the Town standards at the property line; and that they are within sound enclosures.

Jay Greenwell, Land Surveyor testified that the existing concrete pad on site is being removed; that this portion of the property will be re-seeded for grass; that the enclosure area is remaining the same; that the generators will be located within the fenced area and that the proposed generators are diesel generators.

Patrick Hynes, owner, testified that the generators are diesel and will be serviced by an outside company; that the tanks for the diesel fuel will be filled by a truck and the tanks are below the generators.

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. Castelli 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 24, 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 April 13, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.), the letter dated March 21, 2012 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 Orangetown

Office of Building, Zoning & Planning Administration & Enforcement, and
Orangetown B.F.P., and all other departments having jurisdiction of the premises.

2. The applicant withdrew the request for Performance Standards review of the proposed Chillers.

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 for the EMERGENCY GENERATORS 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 April 13, 2012 and the requirements set forth by Gregory Price, P.E., Public Health Engineer, County of Rockland Department of Health in his letter dated March 21, 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 for the Emergency Generators was presented and moved by Mr. Mowerson seconded by Ms. Albanese 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.

