

MINUTES
ZONING BOARD OF APPEALS
NOVEMBER 20, 2007

MEMBERS PRESENT: WILLIAM MOWERSON
NANETTE ALBANESE
JOHN DOHERTY
PATRICIA CASTELLI

ABSENT: DANIEL SULLIVAN

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

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

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

JAMESON
69.20 / 2 / 65; R-15 zone

SIDE YARD ZBA#07-109
AND TOTAL SIDE YARD
VARIANCES APPROVED

BRUSCA
69.05 / 4 / 9; R-15 zone

TWO-FAMILY ZBA#07-110
RESIDENCE APPROVED
WITH COVENANT

MC CARTER
74.06 / 1 / 39; RG zone

FRONT YARD ZBA#07-111
VARIANCE APPROVED

BARTELS
78.17 / 2 / 33; R-40 zone

FRONT YARD, SIDE ZBA#07-112
YARD AND TOTAL SIDE YARD
VARIANCES APPROVED

RFI LLC.
PERFORMANCE STANDARDS
65.18 / 1 / 5; LI zone

PERFORMANCE ZBA#07-113
STANDARDS APPROVED
WITH CONDITIONS

OTHER BUSINESS:

The Board reviewed a change to the site plan submitted for ZBA#07-64 Rasmussen on June 20, 2007: the applicant was doing boring samples on the property prior to the start of construction and found rock at the proposed location of the house; the house remains exactly as the Board approved but has been moved back on the property to avoid the rock; the side yard variance of 28.9' and total side yard of 58.9' remain the same and no new variances are being sought. A motion to approve the change of location of the house was made by Mr. Mowerson, seconded by Mr. Doherty and carried as follows: Ms. Castelli, aye; Mr. Doherty, aye; and Mr. Mowerson, aye; Ms. Albanese did not vote because she was not present for the original hearing.

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.

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: **RESOLVED**, to approve the action of the Chairman executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for SEQRA coordinated environmental review of actions pursuant to the following applications: Orangetown Animal Hospital Addition Site plan; 564 Route 303, Blauvelt, New York, 70.14/4/21; LO district; Interdenominational Christian Fellowship of U.S. Plans; Change of Use/Site plan review; 23 Stephens Road, Tappan, New York, 77.10/3/57; R-15 zone and **FURTHER RESOLVED**, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:00 P.M.

Dated: November 20, 2007

**ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN**

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Joel Jameson
94 Derfuss Lane
Blauvelt, New York 10913

ZBA # 07-109
Date: 11/ 20/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-109: Application of Joel Jameson for a variance from Chapter 43, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 15' required, 8' existing), 10 (Total Side Yard: 30 ' required, 28' proposed and existing) for an existing carport at an existing single-family residence. Premises are located at 94 Derfuss Lane, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.20, Block 2, Lot 65; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, November 20, 2007 at which time the Board made the determination hereinafter set forth.

Joel and Shelley Jameson appeared and testified.

The following documents were presented:

1. Site plan not signed or sealed.
2. Architectural plan of pre-fabricated carport dated 6/30/07.
3. Eight letters in support of application.

Joel Jameson testified that they are applying for a variance to keep the existing carport; that the carport was built without a permit; that they found out that they needed a variance for the permit when they were finishing the addition in the back of the house; that Bert told them that they could not get a certificate of occupancy for the addition until the carport is legalized.

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

Public Comment:

No public comment.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and total side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested side yard and total side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard and total side yard variances is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Mr. Mowerson, seconded by Mr. Doherty, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan was absent.

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

DATED: November 20, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –B.v.W.

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

DECISION

**OWNER OCCUPIED TWO-FAMILY RESIDENCE APPROVED WITH
RESTRICTIVE COVENANT**

To: Frank and Carol Brusca
28 Surrey Court
Pearl River, New York 10965

ZBA # 07-110
Date: 11/ 20/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-110: Application of Frank and Carol Brusca for variances from Chapter 43, Section 3.12, R-15 District, Group M, Column 3 (Single Family Residence Permitted: Two Family Proposed) to convert existing garages into an apartment at an existing single-family residence. Premises are located at 28 Surrey Court, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 4, Lot 9; R-15 zone

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, November 20, 2007 at which time the Board made the determination hereinafter set forth.

Carol and Jennifer Brusca appeared and testified.

The following documents were presented:

1. As-built measured drawing Residence of Frank Brusca dated July 31, 2007 by Colgan Perry Lawler Aurell Architects.
2. Eight letters in support of application.

Carol Brusca testified that her daughter came back home after a divorce with two children; that her husband created an apartment in the basement of the house for the two of them and her daughter and the grandchildren are living upstairs; that she found out from her neighbor that she needed a permit for the work her husband did in the house; that her husband did not think he needed a permit because the work was done within the existing house; and that she has no problem filing a restrictive covenant for the apartment.

Jennifer Brusca testified that she has two girls, a three year old and a two year old; that the shed is legal and the pool is being legalized now; that the pool does not need a variance but it needs an electrical inspection; that she lived on Lexow in Nanuet before moving back home; that the Building Inspector has a copy of the plot plan showing the pool and the shed and that she will get a copy of it for this file.

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

Public Comment:

No public comment.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested owner occupied two-family variance as conditioned by the covenant would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar restricted two-family residences exist in the area.
2. The requested owner occupied two-family variance as conditioned by the covenant would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining a variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested owner occupied two-family variance is APPROVED; with the SPECIFIC PRIOR CONDITION that a covenant with the Town of Orangetown acceptable in form and substance to the Town Attorney be submitted and filed with the Town Attorney's office to the effect that occupancy in the second apartment be limited to an immediate family members, to wit: father, mother, son, daughter, brother, sister and any parent or child of applicants ; 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 owner occupied two-family variance as conditioned by the restrictive covenant was presented and moved by Ms. Castelli, seconded by Mr. Mowerson, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan was absent.

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

DATED: November 20, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

DECISION

FRONT YARD VARIANCE APPROVED

To: Will and Linda McCarter
115 Chestnut Oval
Orangeburg, New York 10962

ZBA # 07-111
Date: 11/ 20/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-111: Application of Will and Linda McCarter for a variance from Chapter 43, Section 3.12, RG District, Group Q, Column 8 (Front Yard: 25' required, 14' proposed) for an addition to an existing single-family residence. Premises are located at 115 Chestnut Oval, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.06, Block 1, Lot 39; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, November 20, 2007 at which time the Board made the determination hereinafter set forth.

Linda McCarter and Paul Rozsypal appeared and testified.

The following documents were presented:

1. Architectural plan dated June 2007 signed and sealed by Robert Hoene, Architect.

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

Linda McCarter testified that she would like to add on a basement and bedroom above it; that they bought the house eleven years ago; that there are five people in her family; that she and her husband have three children aged 8, 13 and 16; that the sixteen year old s using part of the living room as his bedroom with a temporary barrier for privacy; that the backyard is not large enough to build out into it; that the existing garage could not support a second floor; and that this was the most economical way to approach the addition.

Paul Rozsypal testified that he is the applicant's father; that even if the existing garage was shored up to hold a second floor it would no solve the problem because an existing bedroom on the second floor would have to be converted to allow the staircase; that the property slopes toward the street and it is a pie shaped piece of property.

Public Comment:

No public comment.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

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

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

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

DATED: November 20, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR -B.vw.

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

DECISION

**FRONT YARD, SIDE YARD AND TOTAL SIDE YARD VARIANCES
APPROVED: PROPOSED DETACHED GARAGE REMOVED FROM
APPLICATION**

To: Katarina Eisinger and Matthew Bartels
6 Post Lane
Palisades, New York 10964

ZBA # 07-112
Date: 11/ 20/ 07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-112: Application of Katrina Eisinger and Matthew Bartels for variances from Chapter 43, Section 3.12, R-40 District, Group E, Columns 8 (Front Yard:50' required, 40.4' existing non-conforming) 9 (Side Yard: 30' required, 23' existing) and 10 (Total Side Yard: 80' required, 67.3' existing non-conforming) for an addition to an existing single-family residence. Premises are located at 659 Oak Tree Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 2, Lot 33; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, November 20, 2007 at which time the Board made the determination hereinafter set forth.

Katrina Eisinger and Matthew Bartels appeared and testified.

The following documents were presented:

1. Architectural plans by Raymond Boos, Architect, dated 9/17/07.

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

Matthew Bartels testified that there are two parts to the application; that this house is located directly behind his house; that it was purchased for his mom and dad; that they live in Fishkill and his father just had a small stroke; that his mom is 71 years young and his dad is 81 years young; that they are planning to move into this house but they are proposing to add a bedroom to the first floor of the house; that the house is a wonderful old house but has a very narrow staircase to the second floor bedrooms; that they are adding the bedroom to the first floor so that his parents do not need to climb those stairs on a daily basis; that the proposed garage/workshop is the second part of the application but at this time he would like to remove it from the proposed application; that they may consider a garage at another time that would not be located so close to the property line; and that the addition is not changing the existing non-conforming side yards.

Katarina Eisinger testified that they purchased their home on Post Lane twelve years ago and that this house is perfect for he in-laws because it is directly behind their house and there is a path that the grandchildren can use to visit their grandparents; and they will be close if they need help with anything.

Public Comment:

Seta Etmekjian and Dorain Tunell, abutting neighbors on the side of the proposed garage testified that they were in opposition to the garage and its placement on the property but they think the proposal for the house is beautiful.

Sara Buterbough, 47 Closter Road, testified that she has no objections to the proposal and that she has seen the plans.

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested 40.4' front yard, 67.3' total side yard and 23' side yard variances would not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has removed the proposed detached garage from the application and similar additions have been constructed in the area.
2. The requested 40.4' front yard, 67.3' total side yard and 23' side yard variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
3. The benefits sought cannot be achieved by other means feasible for the applicant other than obtaining variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested 40.4' front yard, 67.3' total side yard and 23' side yard variances is APPROVED ; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

(i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

The foregoing resolution to approve the application for the requested 40.4' front yard, 23' side yard and 67.3' total side yard variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Doherty, aye; and Ms. Albanese, aye. Mr. Sullivan was absent.

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

DATED: November 20, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR –B.v.W.

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

DECISION

**PERFORMANCE STANDARDS CONFORMANCE APPROVED with
CONDITIONS.**

To: Dwight D. Joyce (RFI LLC)
2 Joyce Plaza
Stony Point, New York 10980

ZBA#07-113
Date: 11/20/07

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#07-113: Application of RFI, LLC. pursuant to Section 4.1 and 10.334 for Use Subject to Performance Standards review with respect to the expansion of office and installation of a dry mixer to mix dry foods. Premises are located at 300 Corporate Drive, Suite 14, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.18, Block 1, Lot 5; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Tuesday, November 20, 2007, at which time the Board made the determination hereinafter set forth.

Dwight D. Joyce. Attorney, appeared and testified and the following documents were presented:

1. Architectural plans labeled RFI LLC. Proposed Additions/ Alterations (4 pages) dated 9/8/06 by George Hodash Associates not signed or sealed.
2. Detail Sheet from quality metal and welding for dust collector installation for RFI Inc. 300 Corporate Drive, Blauvelt, NY.
3. Resume of Operations and Equipment dated October 17, 2007; revised copy must be submitted.
4. Short Environmental Assessment Form not dated or signed; revised copy must be submitted.
5. Material Safety Data Sheets .
6. Interdepartmental Memorandum from D. Sampath, Assistant Fire Inspector, Bureau of Fire Prevention to the Zoning Board of Appeals dated 11/20/07 .
7. Correspondence from the Town of Orangetown Department of Environmental

Management and Engineering to the Zoning Board of Appeals dated 11/20/07.

8. A memorandum dated September 28, 2007 from the County of Rockland Department of Planning.
9. A letter dated October 30, 2007 from the County of Rockland Drainage Agency signed by Edward F. Devine Executive Director.
10. A letter dated October 17, 2007 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
11. A letter dated October 9, 2007 from the State of New York Department of Transportation signed by Mary Jo Russo, PE. Rockland County Permit Engineer.

Dwight Joyce, Attorney testified that the company mixes ingredients for health food supplements that are sold in those types of stores across the county; that he supplied the material data sheets for all of the companies locations; that not all of those items are used in this operation; that they are before the Board to get a performance standards approval for the mixer; that the specs for the mixer have been provided; that the material data sheets would be provided for the materials used at this location and the performance standards form and fire supplement will be updated and returned to the Board.

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

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

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

At the hearing on November 20, 2007, the Board determined that the proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Zoning Board of Appeals will have any significant involvement in the Performance Standards Conformance Review process, pursuant to Section 617.6 of SEQRA. On motion by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Mr. Doherty, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Mowerson, aye, the Board declared itself as Lead Agency for Performance Standards Conformance Review. Mr. Sullivan was absent.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, Short Form Environmental Form, the letter of the Director of the Orangetown Department of Environmental Management and Engineering, the letter from Douglas Sampath, Assistant Orangetown Fire Inspector, the letter from Rockland County Department of Planning, the letter from the Rockland County Sewer District No.1, the letter from the County of Rockland Drainage Agency, concluding there is no reasonable doubt as to the likelihood of applicant's conformance, the other documents presented to the Board and the testimony of applicant's representative, the Board finds and concludes that conformance with the Performance Standards set forth in Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Building Department and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application is APPROVED with the Specific CONDITIONS that (a) the applicant adhere to all of the requirements set forth by the Town Fire Safety Bureau, and (b) the applicant furnish the Board with written information setting forth the quantity, weight, size and type of containers being utilized in the storage of the materials listed as utilized on the premises and the manner of their disposal; (c) the applicant submit a revised performance standard form, short EAF and fire supplement as reviewed at the hearing; (d) the applicant shall obtain a wastewater discharge permit for non-domestic waste discharge from the Department of Environmental Management and Engineering; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to these conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any buildings plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to the variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other

board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit does not constitute “substantial implementation for the purposes hereof.

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

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

DATED: November 20, 2007

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

