

MINUTES
ZONING BOARD OF APPEALS
OCTOBER 17, 2012

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

ABSENT: MICHAEL BOSCO, ALTERNATE

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

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

NEW ITEMS:

EGGERS SPECIAL PERMIT AND PERFORMANCE STANDARDS 68.20 / 5 / 4 ; CO zone	APPROVED WITH SPECIFIC CONDITIONS	ZBA#12-72
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ADDITIONAL BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Saperstein Retaining Wall Plan, 115 Tweed Boulevard, Upper Grandview, NY 71.17 / 1 / 21.3; R-22 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:00 P.M.

DECISION

SPECIAL PERMIT & PERFORMANCE STANDARDS REVIEW APPROVED
WITH SPECIFIC CONDITIONS

To: William Eggers

ZBA # 12-72

11 Prospect Avenue
Woodcliff Lake, New Jersey 07677

Date: October 17, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-72: Application of Eggers Automotive Repair for a Special Permit from Chapter 43 (Zoning) Section 3.11, Column 3 #2 (Small craftsman industries, provided that there shall be no more than three [3] employees) and pursuant to Section 4.1, Chapter 43 (Zoning) Use subject to Performance Standards Conformance Review with respect to automotive repair. The premises are located at 88 South Main Street, Pearl River, New York and identified on the Orangetown Tax Map as Section 68.20, Block 5, Lot 4, in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2012 at which time the Board made the determination hereinafter set forth.

William Eggers and Janice Ganley appeared and testified.

The following documents were presented:

1. Hand drawing of the proposed layout within building.
2. Survey of the property.
3. Certificate of Occupancy of the building dated August 1, 1999.
4. Performance Standards Resume of Operations and Equipment form dated September 5, 2012 and signed by William Eggers.
5. Fire Prevention Supplement.
6. A memorandum dated September 26, 2012 from James Dean, Superintendent of Highways, Town of Orangetown.
7. A letter dated September 13, 2012 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, town of Orangetown.
8. A memorandum dated September 10, 2012 from the County of Rockland Department of Planning.
9. A memorandum dated September 12, 2012 from Micheal B. Bettmann, Chief Fire Inspector, Town of Orangetown.

Mr. Mowerson, Chairman, 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 based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, and also seeks to construct or expand a primary or accessory/appurtenant, **non**-residential structure or facility less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls; 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) & (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.

Mr. Mowerson addressed the eight points the ZBA considers in the granting of a Special permit; and considered that point six regarding a parking and traffic flow plan and point seven concerning drainage should be addressed with the Town Highway Department and the Department of Environmental Management and Engineering.

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:

The proposed use as described and represented by the applicant:

1. Will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
2. Will not cause undue traffic congestion or create a traffic hazard.
3. 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. Will not adversely affect the character of or property values in the area.
5. Will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the town.
6. Will comply with all other regulations applicable to such use. For all special permit uses a proposed plan showing the size and location of the lot, design and location of the proposed facilities (including access drives, screening and streets within 1,000 feet) and a detailed description thereof must be submitted in accordance with the rules prescribed by the Board.
7. The Board has instructed the applicant to submit such plan (described in #6) to James Dean, Superintendent of Highways, Town of Orangetown, for his approval.
8. Before any special permit is granted, the applicant must secure approval of the proposed drainage structure by the town Engineer or the consulting engineers for the Town of Orangetown. The drainage criteria for special permit uses shall be the same and the drainage criteria in the Highway Specifications of the Town of Orangetown and the Orangetown Subdivision Regulations. The special permit shall also require that where it is not practical to install permanent drainage facilities prior to the completion of the work for which the special permit is granted, it will be necessary for temporary drainage structure to be provided so that all surrounding properties are protected from flooding hazards during construction of the project for which the special permit is issued. No permit shall be issued by the Inspector unless and until a drainage plan approved by the Zoning Board of Appeals and the Town Engineer and/or consulting engineers shall be filed with the Inspector.
9. The Zoning Board has instructed the applicant to submit a drainage plan

- (described in #8) to the Orangetown Department of Environmental Management and Engineering (“DEME”) for approval.
10. The site development plan submitted must show that concrete sidewalks and curbs, to be constructed in accordance with the specifications of the Town of Orangetown are to be provided.
 11. The Zoning Board has waived the sidewalk and curbs requirement (described in #10) because there have never been sidewalks in this area and no construction is taking place on the lot.
 12. Based upon the information contained in the applicant’s Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated September 13, 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 September 12, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.), and the letter dated September 26, 2012 from James Dean, Superintendent of Highways, Town of Orangetown; 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, DEME, 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, and the SPECIAL PERMIT §§4.16, 4.17 AND 4.18 are APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown B.F.P., letter dated February 2, 2012, by the memorandum dated September 26, 2012 from James J. Dean; and meet the requirements set forth in #6,#7,#8 and #9 of the above finding of facts and conclusions; 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 and Special Permit §§ 4.16, 4.17 and 4.18 was presented and moved by Mr. Mowerson, seconded by Ms. Salomon 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.

