

MINUTES
ZONING BOARD OF APPEALS
OCTOBER 19, 2011

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

ABSENT: THOMAS WARREN, 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:

| | | |
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| 4 & 6 DEPOT SQUARE 77.08 / 4 / 25 & 26; CS zone | LOT AREA, FRONT YARD, TOTAL SIDE YARD, PARKING, LOT COVERAGE AND OUTDOOR DINING FOR LOTS #25 & #26; REAR YARD FOR LOT #25; SIDE YARD AND BUILDING HEIGHT FOR LOT # 26 VARIANCES GRANTED OUTDOOR LOADING DOCK VARIANCE NOT REQUIRED | ZBA#11-81 |
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NEW ITEMS:

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| SICILIANO 69.14 / 1 / 20; R-15 zone | TOTAL SIDE YARD VARIANCE APPROVED | ZBA#11-86 |
| TRISEAL/TEKNI-PLEX PERFORMANCE STANDARDS 65.14 / 1 / 1; LI zone | APPROVED WITH SPECIFIC CONDITIONS | ZBA#11-87 |
| RANALLO 78.17 / 1 / 14; R-15 zone | REAR YARD FOR SWIMMING POOL APPROVED WITH SPECIFIC CONDITIONS | ZBA#11-88 |
| KOLB JR. SUBARU TEMPORARY STORAGE OF VEHICLES 74.11 / 1 / 24; LI zone | SECTION 11.2 PARKING APPROVED FOR 10 & 15 YEARS WITH SPEICIFIC CONDITIONS | ZBA#11-89 |

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 10:35 P.M.

DECISION

LOT AREA, FRONT YARD, LOT COVERAGE, STREET FRONTAGE, AND PARKING VARIANCES FOR LOTS 25 & 26, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES FOR LOT 26; REAR YARD FOR LOT 25 AND OUTDOOR DINING VARIANCE FOR LOT 26 APPROVED WITH CONDITIONS
OUTDOOR LOADING BERTH VARIANCE DEEMED UNNECESSARY

To: Jay Greenwell (4 & 6 Depot Square)

ZBA # 11-81

85 Lafayette Avenue
Suffern, New York 10901

Date: October 19, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-81: Application of 4 & 6 Depot Square for variances from Chapter 43 (Zoning), CS District, Group FF, Columns 5 (Lot Area: 2,500 sq. ft. required, 2,040 sq. ft. existing for lot 25; 5,025 sq. ft. existing and 4,557 sq. ft. proposed for lot 26 after dedication); 8 (Front Yard: 0 or 45' required, 8.1' existing for lot 25, 26.2' existing and 18.5' proposed for lot 26); 9 (Side Yard: 0 or 12' required; 0.4' existing, 0.6' proposed for lot 26); 10 (Total Side Yard: 0 or 25' required; 4.2' existing, 4.4' proposed for lot 26); 11 (Rear Yard: 25' required, 1.7' existing for lot 25); 12 (Building Height: 22' permitted, 25' proposed for lot 26); and from note 14 of the notes to Use and Bulk Table: 75% lot coverage permitted; 92% existing and 95% proposed for lot 25, 54% existing and 74% proposed for lot 26); and from Section 3.11, Columns 6, # 5 (Parking: 14 spaces required for lot 25 & 8 spaces required for lot 26; 0 provided on site); 7, #3 (All retail sales and service shall be within completely enclosed buildings: Outdoor Dining for 24 patrons proposed); 7, #6 (No Outdoor loading berths permitted: one outdoor loading berth proposed); for a proposed renovation of an existing restaurant and conversion of adjacent non-conforming dwelling into a wine shop. Premises are located at 4 & 6 Depot Square, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.08 Block 4 Lots 25 & 26 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 19, 2011 at which time the Board made the determination hereinafter set forth.

Jay Greenwell, Land Surveyor, Walter Sevastian, Attorney, Meg Fowler, Architect, and Joe Printz, owner, appeared and testified.

The following documents were presented:

1. Site plan dated January 31, 2011 with the latest revision date of August 9, 2011 signed and sealed by Jay A. Greenwell, L.S..
2. Architectural plans dated May 6, 2011 signed and sealed by Margaret L. Fowler, Architect.
3. A narrative dated August 11, 2011 from Jay A. Greenwell, Land Surveyor.
4. A letter dated October 4, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
5. A letter dated September 29, 2011 from the County of Rockland Department of

- Highways signed by Sonny Lin, P.E..
6. A letter dated September 28, 2011 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
 7. A letter dated September 7, 2011 from the State of New York Department of Transportation signed by Mary Jo Russo, P.E..
 8. Orangetown Planning Board Decision #11-28 dated July 13, 2011.

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for the application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3); and since the Planning Board conducted SEQRA reviews and on July 13, 2011 rendered environmental determinations of No significant adverse environmental impacts to result from the proposed land use actions (i.e., a “Negative Declaration” or “Neg Dec”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations §617.6 (b)(3). 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. Warren was absent.

Jay Greenwell testified that this property is two small tax lots that are located where the old Relish Restaurant was; that Joe purchased both lots; that the previous owner of relish lived in the pre-existing non-conforming house and ran the restaurant next door; that Joe is planning to use the existing restaurant as a restaurant and the house next to it as the wine store; that this project was thoroughly reviewed by the Planning Board and received a negative declaration for SEQRA in July; that the proposal includes a small addition to the existing restaurant on the west side and the house would be demolished and rebuilt on the existing foundation with smaller volume and a partial second floor; that the Planning suggested that the angled parking spaces be changed to parallel spaces which meant taking three spaces and making two; that shaded portion of the plan is owned in fee by the applicant but is used by the Town as entrance to the parking and is being offered for road widening; that there seems to be many variances requested but many are for pre-existing conditions; that they are decreasing the non-conforming use of the dwelling in a CS district and returning to a use conforming in the CS zone; that the Planning Board memo refers to the area between the restaurant and the parking area and Post Office; that there is an existing concrete walk presently and the applicant would like to keep it a concrete walk because of maintenance issues with paving blocks; that it is a very small area and would be diminimus benefit to pervious areas; that the additional parking was discussed at the Planning Board and the applicant has agreed to appear in front of the Town Board in the future if parking becomes an issue; that spaces could be created west of tax lot #26; that they were told they needed the outdoor loading berth variance; that it is not the typical loading berth but they need to cross over Town owned property to access the rear loading area; and that they would appreciate an over ride on the County’s letter and if the Board feels that they do not need the outdoor loading berth, they would appreciate permission to enter the loading area across Town property.

Walter Sevastian, Attorney, testified that there are many cars in the commuter lot without permits; that he has never seen the additional spaces in the rear full; that the restaurant would be occupying spaces later in the day and the evening; that there are many variances being requested for the application but two non-conforming items are being eliminated; that two others are pre-existing conditions; and the granting of variances is a balancing act; that this business will give the hamlet of Sparkill the shot in the arm that it needs; that there will be no detriment to the area by the granting of these variances; that they agree that this is not a typical outdoor loading berth or dock and they would agree with the Board that this is a loading area; that there will be an overhead garage door for wine and food deliveries; that they do have to cross a strip of town owned land to enter the loading area; and that the refuse container would also be located in the northwest corner of the property.

Joe Printz testified that deliveries for the restaurant would typically be in the morning; that wine deliveries are usually done on Fridays up until 4 P.M.; that he needs to expand his business; that the Tappan location is problematic because of the lack of parking; that many of his customers would shop more often at his store if they could park; that because of the lack of parking they end up purchasing wine in New Jersey; and that he believes this proposal will be good for Sparkill and for him.

Public Comment:

Eileen Larkin, Palisades, testified that she is in support of the application; that she is a customer of the wine shop and knows that Joe would be an asset to Sparkill.

Tom Artin, Kings Highway, Sparkill, testified that he is in favor of the proposal; that Relish was wonderful for Sparkill and that it was unfortunate about the owner's untimely death; that the empty space is sad; that the Tappan wine shop is evidence of what Joe will do with the space.

Jim Bernard, Bauer & Crowley insurance, Sparkill, testified that his building is on the corner in Sparkill and that he enjoyed Relish when it was operating; that the hamlet welcomes the wine shop and restaurant.

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 lot area, front yard, lot coverage, parking variances for lots 25 & 26; side yard, total side yard, building height and outdoor dining for lot 26 and the building height variance for lot 25 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Many of the requested area variances are for existing conditions. The non-conforming use for the building on lot 26 is being changed from a residence to a wine shop which is a conforming use for the area.
2. The Board determined that the request for the variance for outdoor loading berth is not required; that the delivery area that is accessed over Town property is a loading access area with an overhead garage door and not the typically requested "outdoor loading berth".
3. The Board finds that the outdoor dining is on lot 26 but is accessory to the restaurant use on lot 25; that all food and beverages shall be prepared within the building on lot 25; outdoor dining patrons shall be limited to a maximum number of 24 to be seated; that no bar or beverage dispensing facility (including any beer truck) or cooking facility (including any grill or barbecue) of any kind shall be installed or utilized in any part of the outdoor area; that there shall be no outdoor music, entertainment or amplified sound of any kind played anywhere outside at the premises; that the outdoor area must be vacated by 10:00 P.M Sunday through Thursday, and by 12 midnight on Friday and Saturday and on the eves of the national holidays.

4. The requested lot area, front yard, lot coverage, parking variances for lots 25 & 26; side yard, total side yard, building height and outdoor dining for lot 26 and the building height variance for lot 25 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Many of the requested area variances are for existing conditions. The non-conforming use for the building on lot 26 is being changed from a residence to a wine shop which is a conforming use for the area.
5. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The lots and existing buildings are pre-existing non-conforming and any work on the site would require a variance.
6. The requested lot area, front yard, lot coverage, parking variances for lots 25 & 26; side yard, total side yard, building height and outdoor dining for lot 26 and the building height variance for lot 25, although substantial, and will not have an adverse effect or impact on the physical or environmental conditions of the area. The lot area, front yard, lot coverage side yard and total side yard variances are existing and a non-conforming use is being converted to a use by right.
7. 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 lot area, front yard, lot coverage, parking variances for lots 25 & 26; side yard, total side yard, building height and outdoor dining for lot 26 in conjunction with the restaurant on lot 25; and the building height variance for lot 25, are APPROVED; with the SPECIFIC CONDITIONS that all food and beverages shall be prepared within the building; outdoor dining patrons shall be limited to a maximum number of 24 to be seated; that no bar or beverage dispensing facility (including any beer truck) or cooking facility (including any grill or barbecue) of any kind shall be installed or utilized in any part of the outdoor area; that there shall be no outdoor music, entertainment or amplified sound of any kind played anywhere outside at the premises; that the outdoor area must be vacated by 10:00 P.M Sunday through Thursday, and by 12 midnight on Friday and Saturday and on the eves of the national holidays; 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 lot area, front yard, lot coverage, parking variances for lots 25 & 26; side yard, total side yard, building height and outdoor dining on lot 26 in conjunction with the restaurant on lot 25 and the building height variance for lot 25, was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Warren 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.

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Donato and Beth Siciliano

ZBA # 11-86

26 McKinley Street
Pearl River, New York 10965

Date: October 19, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-86: Application of Donato and Beth Siciliano for variances from Chapter 43 (Zoning) Section 3.12, R-15 District, Group M, Columns 9 (Side Yard: 20' required, 16.9' proposed), and 10 (Total Side Yard: 50' required, 49.82' proposed) for an addition to an existing single-family residence.. The premises are located at 26 McKinley Street, Pearl River, New York an identified on the Orangetown tax Map as Section 69.14, Block 1, Lot 20; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 19, 2011 at which time the Board made the determination hereinafter set forth.

Beth Siciliano appeared and testified.

The following documents were presented:

1. Architectural plans dated 07/28/2011 with the latest revision date of 07/25/2011 signed and sealed by Robert Hoene, Architect.

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. Mr. Warren was absent.

Beth Siciliano testified that they are proposing to add a one story addition with a family room and a bedroom off of the existing kitchen; that her sister-in-law has breast cancer and is coming to live with them; that her and her husband have owned the house for 26 years and have three children; that there is no other place on the property to construct the addition; that if they built it on the other side of the house they would have to break through the garage and add stairs; that they have pool in the back yard and a shed; and that five other houses on the block have done similar additions.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard and total side yards variances will 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 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant testified that they need to construct the extra bedroom on the same level of the house as the existing full bathroom.
4. The requested side yard and total side yard variances are not substantial. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

6.

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 are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote

thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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

DECISION

PERFORMANCE STANDARDS APPROVED WITH CONDTIONS

To: Donald Brenner (Tri-Seal/ Teckni –Plex)

ZBA # 11-87

**4 Independence Avenue
Tappan, New York 10983**

Date: October 19, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-87: Application of Tri-Seal/Tekni-Plex for Performance Standards Review, Chapter 43 (Zoning), LIO District, Section 4.1, for air pollution control/dust collector. The property is located at 900 Bradley Hill Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 65.14, Block 1, Lot 1 in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 19, 2011 at which time the Board made the determination hereinafter set forth.

Brannin Russell, Plant Engineer and Donald Brenner, Attorney appeared and testified.

The following documents were presented:

1. Kernic Dust collection system plan dated June 1, 2011 by Kernic Systems Inc.
2. Eight pages Farr Air Pollution Control
3. Site plan.
4. A copy of the submittal for the Performance Standards Review dated March 2, 1984.
5. Use Subject to Performance Standards Resume of Operations and Equipment form.
6. Fire Prevention Supplement.
7. A letter dated September 26, 2011 from Keneck Skibinski, Acting Chief Operator, Department of Environmental Management and Engineering, Town of Orangetown.
8. A memorandum dated September 20, 2011 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
9. A letter dated October 12, 2011 from the County of Rockland Department of Planning signed by Thomas B. Vanderbeek, P.E., Commissioner of Planning,

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; and Mr. Mowerson, aye.

Donald Brenner, Attorney testified that the dust collector is a requirement from OSHA; that it can be added as amendment to the original performance standards approval; and that the plant engineer is present and can testify to any changes since the original approval.

Brannin Russell, Plant Engineer, testified that the dust collector has to be added to meet OSHA requirements; that the process of the plant has not changed; that the measurement of dust has been refined and because of that the Dust collector is mandated by OSHA.

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 September 26, 2011 from Keneck Skibinski, Acting Chief Operator of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) concluding there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated September 20, 2011 from Michael B. Bettmann, Chief Fire Inspector, 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 Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and the Bureau of Fire Prevention, and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown, letter dated September 20, 2011 ; 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 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 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 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, performance standards or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute “substantial implementation” for the purposes hereof.

The foregoing resolution to approve the application for Zoning Code § 4.1 Performance Standards was presented and moved by Mr. Mowerson, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DECISION

REAR YARD VARIANCE FOR POOL APPROVED WITH SPECIFIC CONDITIONS

To: Richard and Grace Ranallo

ZBA # 11-88

17 Horne Tooke Road
Palisades, New York 10964

Date: October 19, 2011

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#11-88: Application of Richard and Grace Ranallo for variances from Chapter 43, Section 3.12, R-15 District, Group M, Section 5.227 (Rear Yard for Pool: 20’ required, 10’ proposed) for the installation of in-ground pool at an existing single-family residence. The premises are located at 17 Horne Tooke Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.17, Block 1, Lot 14; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 19, 2011 at which time the Board made the determination hereinafter set forth.

Richard and Grace Ranallo appeared and testified.

The following documents were presented:

1. Survey with pool drawn on it.
2. A letter dated October 18, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
3. A letter dated September 16, 2011 from the County of Rockland Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter dated October 7, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

5. A letter dated October 18, 2011 and an e-mail dated October 18, 2011 from the Palisades Interstate Park Commission signed by Karl B. Roecker, Landscape Architect.

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

Ms. Salomon recused herself as a neighbor of the Ranallo family.

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. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye. Mr. Warren was absent. Ms. Salomon recused herself.

Richard Ranallo testified that he would like to install an in-ground pool in his rear yard; that he has fifty feet from the back of the house to the property line; that he would like to place the pool ten feet from his rear property line instead of the required twenty feet; that his house is set back on the property, compared to many of his neighbors; that he did have a problem with the fence in the rear of the property; that he met with Karl Roecker from the Palisades Interstate Park and he moved the fence, finishing at 11:00 P.M. last night; that someone looked at it today; that the access gate has been removed; that both sheds on the property are five feet from the property line; that no spotlights would be shining onto the pool; and that he would satisfy the letter from Palisades Interstate Park.

Public Comment:

Eileen Larkin, abutting property owner testified that she is not opposed to the pool; that the house sits below her house and she can't see it from her main floor; that Rich told her that if the installation of the pool required blasting, they would not pursue it; that they have done quality work around the house; and she wondered where the water would be drained from the pool.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The rear yard backs up to Palisades Interstate Park property. The applicant has agreed to meet the requirements of the Palisades Interstate Park Commission (P.I.P.C.) and have the fence in the rear of the property inspected by them; a letter from P.I.P.C. shall be submitted to the Orangetown Building Department stating that all of their requirements have been met before the issuance of a certificate of occupancy for the pool.

2. The Palisades Interstate Park Commission recommends, as a condition of any action taken by the Orangetown Zoning Board, that the park fence alignment be corrected and the access gate removed. Confirmation by accurate on-site survey where the shared property line exists prior to the installation of the chain link fence. Reference: (P.I.P. C. letter dated October 18, 2011)
3. The applicant shall remove all evidence of the illegal fence that was constructed on the Palisades Park property, including and not limited to the fence posts. Confirmation is required from the Palisades Interstate Park Commission before the issuance of a certificate of occupancy for the pool is issued.
4. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The rear yard backs up to Palisades Interstate Park property. The applicant has agreed to meet the requirements of the Palisades Interstate Park Commission and have the fence in the rear of the property inspected by them; a letter from the P.I.P.C. shall be submitted to the Orangetown Building Department stating that all of their requirements have been met before the issuance of a certificate of occupancy for the pool.
5. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The applicant's house is set back further on the property than other houses in the area, which makes his rear yard smaller than neighboring properties.
6. The requested rear yard variance is not substantial. The rear yard backs up to Palisades Interstate Park property. The applicant has agreed to meet the requirements of the Palisades Interstate Park Commission and have the fence in the rear of the property inspected by them; a letter from P.I.P.C. shall be submitted to the Orangetown Building Department stating that all of their requirements have been met before the issuance of a certificate of occupancy for the pool.
7. 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 rear yard variance is APPROVED with the SPECIFIC CONDITIONS that (1)the applicant shall remove all evidence of the illegal fence that was constructed on the Palisades Interstate Park property, including and not limited to the fence posts; (2) Confirmation of said removal is required from the Palisades Interstate Park Commission before the issuance of a certificate of occupancy for the pool; (3) The Palisades Interstate Park Commission recommends, as a condition of any action taken by the Orangetown Zoning Board, that the park fence alignment be corrected and the access gate removed. Confirmation by accurate on-site survey where the shared property line exists prior to the installation of the chain link fence. Reference: (P.I.P. C. letter dated October 18, 2011); 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 rear yard variance was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; and Mr. Mowerson, aye. Mr. Sullivan was absent. Ms. Salomon recused herself.

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

SECTION 11.2 VARIANCE APPROVED WITH SPECIFIC CONDITIONS

To: Donald Brenner (Bill Kolb Jr. Subaru)

ZBA # 11-89

4 Independence Ave.

Date: October 19, 2011

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 11-89: Application of Bill Kolb Jr. Subaru for an extension of time (ZBA#06-70) from Chapter 43 (Zoning), LI District, Section 11.2 (Private parking lot)) for the temporary storage/parking of Subaru cars. The premises are located at 11 Highview Avenue, Orangeburg, New York an identified on the Orangetown tax Map as Section 74.11, Block 1, Lot 24; LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 19, 2011 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Bill Kolb Jr. appeared and testified.

The following documents were presented:

1. Site plan dated 01/20/2004 signed and sealed by Robert Rahnefeld, P.L.S..
2. A letter dated October 18, 2011 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
3. A letter dated October 18, 2011 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.

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 seeks a renewal of a permit or license, where there will be no material change in permit conditions or the scope of permitted activities, the application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (26). 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. Warren was absent.

Donald Brenner, Attorney, testified that they are before the Board for an extension of time of the previously granted special permit; that Bill Kolb Jr. Subaru has been storing cars on this lot for seven years without incident; that they were originally granted a one year variance and came back before the Board and were granted a five year variance; that the Town Highway Department is working on making Highview Avenue a one way street from Western Highway down towards Route 303; that Bill Kolb Subaru has agreed to install an entrance and turn around onto the property from Greenbush Road at a cost to the applicant; that they have signed a 25 year lease for the parking area; that the long term lease was necessary before they spend money on this capital improvement that the benefits the Town; and they are asking the Board for a renewal for twenty-five years to match the lease; and that the Board has done something similar at Organic Recycling granting a 10 year extension which matches their ten year lease.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested extension of the temporary parking/storage variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant was originally granted this variance in 2004 and no complaints have been received regarding the temporary parking/ storage of vehicles.

2. The requested extension of time for storage of vehicles is granted for a ten year period with an automatic renewal for another ten years, and then five additional years, contingent upon there being no violations or verifiable complaints by the neighbors concerning the property leased to Bill Kolb Jr. Subaru or a successor in interest.
3. The requested extension of the temporary parking variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant was originally granted this variance in 2004 and no complaints have been received regarding the temporary parking/ storage of vehicles.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining the time period extension variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested temporary storage of vehicles variance is APPROVED with the following SPECIFIC CONDITION: extension of time for storage of vehicles is granted for a ten year period with an automatic renewal for another ten years, and then five additional years, contingent upon no violations or verifiable complaints by the neighbors concerning the property leased to Bill Kolb Jr. Subaru or a successor in interest ; 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 extension of time for the temporary storage of vehicles variance with the SPECIFIC CONDITION that the extension of time for storage of vehicles is granted for a ten year period with an automatic renewal for another ten years, and then five additional years, contingent upon no violations or verifiable complaints by the neighbors concerning the property leased to Bill Kolb Jr. Subaru or a successor in interest; was presented and moved by Ms. Castelli, seconded by Mr. Mowerson and carried as follows: Ms. Castelli, aye; Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Warren 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.

