

MINUTES  
ZONING BOARD OF APPEALS  
OCTOBER 3, 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  
Melissa Pezzullo, 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:

SHANAHAN 78.13 / 1 / 3.4; R-40 zone	FLOOR AREA RATIO, VARIANCE APPROVED	ZBA#12-68
PANSY 68.11 / 3 / 68; R-15 zone	SIDE YARD AND TOTAL SIDE AYRD VARIANCES APPROVED	ZBA#12-69
KLINE 68.12 / 5 / 35; RG zone	§ 5.153 ACCESSORY STRUCTRE DISTANCE FROM PRINCIPAL BUILDING AND § 5.227 ACCESSORY STRUCTURE DISTANCE FROM REAR & SIDE YARDS APPROVED	ZBA#12-70
INSTRUMENTATION LABORATORY PERFORMANCE STANDARDS 70.19 / 1 / 45; LO zone	APPROVED	ZBA#12-71

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 8:30 P.M.

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: Marc Comito (Shanahan)

ZBA # 12-68

P.O. Box 300

Date: October 3, 2012

West Nyack, New York 10994

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-68: Application of Michael Shanahan for a variance from Chapter 43 (Zoning), Section 3.12, R-40 District, Group E, Column 4 (Floor Area Ratio: .15 permitted, .166 proposed) for an addition to the rear of an existing garage for an outdoor bathroom and a gazebo at an existing single-family residence. The premises are located at 8 Kopac Lane, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.13, Block 1, Lot 3.4 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2012 at which time the Board made the determination hereinafter set forth.

Marc Comito, Contractor, and Jay Greenwell, Land Surveyor, appeared and testified.

The following documents were presented:

1. Revised Site Development Plan for Pool Shed and Gazebo dated 1/10/10 with the latest revision date of 5/29/12 signed and sealed by Jay Greenwell, Land Surveyor.
2. Architectural plans labeled "New Addition to Existing Detached Garage Lot #4 Kopac Lane" dated 5/17/2012 by Robert Hoene, Architect.

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 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.

Jay Greenwell testified that the applicant would like to add two small additions to the rear of the garage to add a bathroom/ cabana for the pool; that they are also adding a gazebo over the existing pavers by the pool; that they total addition is 225 sq. ft.; that they had already received variances for building height, side yard and a small floor area ratio variance when the detached garage was built; that the gazebo counts in floor area ratio because it is a roofed over structure but it is a see through structure without walls; that it is 14'x 14' octagon on the pavers by the pool; that originally they thought that the bathroom addition in the rear of the garage would not be calculated as floor area ratio because it is under 7 1/2' tall but the measurement changed to 8' and it must be included in the floor area ratio calculations.

Marc Comito testified that the lot is trapezoid shaped; that the pool equipment is screened but if the Board wants more screening he will talk to the applicant; that the total floor area ratio being requested is .166 and the bulk table can be corrected.

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. Salomon and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

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

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

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested floor area ratio 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 floor area ratio variance was presented and moved by Mr. Sullivan, 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.

## DECISION

### SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: John and Ann Marie Pansy  
268 North Lincoln Avenue  
Pearl River, New York 10965

ZBA # 12-69

Date: October 3, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-69: Application of John and Ann Marie Pansy for variances from Chapter 43 (Zoning), Section 3.12, R-15 District, Group M, Columns 9 (Side yard: 20' required, 12.5' existing) and 10 (Total Side Yard: 50' required, 42.8' existing) for an existing shed attached to an existing single-family residence. The premises are located at 268 North Lincoln Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 3, Lot 68; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2012 at which time the Board made the determination hereinafter set forth.

John and Ann Marie Pansy appeared and testified.

The following documents were presented:

1. Survey dated September 7, 2012.
2. A letter to the Board dated October 3, 2012 signed by John and Ann Marie Pansy.
3. Twelve letters from neighbors in support of the application,
4. Six pictures of the existing shed and yard.

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 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. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

John Pansy testified that they recently had a deck installed in the rear of the house; that after several inspections, the Building Inspector noticed that the existing shed was not shown on the plot plan and after investigating the paper work available, it was discovered that the shed was built without the proper paper work being filed; that the shed was built in 1986; that they hired a contractor to build it and thought it was done properly; that they are before the Board to straighten this out and be able to get a certificate of occupancy for the shed and the deck; and that the property is very sloped behind the existing shed and the shed could not have been built on the slope. John Pansy also submitted six pictures of the shed and the 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.

Mr. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Salomon 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 yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The shed was constructed in 1986 and has existed without complaint and the property has a severe slope in the rear which would make it almost impossible to build a shed in the rear corner of the lot.
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. The shed was constructed in 1986 and has existed without complaint and the property has a severe slope in the rear which would make it almost impossible to build a shed in the rear corner of the lot.
3. The benefits sought by the applicant cannot be achieved by other means feasible

for the applicant to pursue other than by obtaining variances.

4. The requested side yard and total side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard and 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. Albanese, aye; Ms. Salomon, aye; Ms. Castelli, 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

#### § 5.153 ACCESSORY STRUCTURE DISTANCE TO PRINCIPAL STRUCTURE AND § 5.227 ACCESSORY STRUCTURE SIDE AND REAR YARD VARIANCES APPROVED

To: Gregory and Margaret Kline

ZBA # 12-70

145 Brightwood Avenue  
Pearl River, New York 10965

Date: October 3, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-70: Application of Gregory and Margaret Kline for variances from Chapter 43 (Zoning), RG District, Group Q, Section 5.153 (Accessory Structure distance from Principal Building: 15' required, 6' 7 ½ " existing, 4' 10" proposed) and from Section 5.227 (Accessory Structures must be 5' from rear and side yards: existing garage is 2' from rear yard and 3.9' from side yard) for the construction of covered ramp and patio at an existing single-family residence. The premises are located at 145 Brightwood Avenue, Pearl River New York and identified on the Orangetown Tax Map as Section 68.12, Block 5, Lot 35, in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2012 at which time the Board made the determination hereinafter set forth.

Gregory Kline and Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated June 25, 2012 signed and sealed by Kier Levesque, Architect.
2. Seven letters from abutting property owners in support of the application.

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 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.

Gregory Kline testified that the house was built in 1928; that they purchased the house twenty years ago and that the garage was there when they purchased the house.

Kier Levesque, Architect, testified that he searched the files to see if the garage was on any of the existing surveys and it was not; that there was no building permit or certificate of occupancy for the existing garage; that the garage is a masonry structure and cannot be moved; that it sits two feet from the rear property line and three point nine feet from the side property line; that they are applying for variances for the existing garage and for the separation between the garage and the existing house after they build the covered

ramp and covered porch; that there is seven feet between the house and garage presently and they are proposing 4' 10" separation after the proposed construction; that the ramp is needed to allow wheel chair access into the house and covering it will allow it to be used in inclement weather.

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. Salomon 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 § 5.153 and § 5.227 rear & side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' garage has existed in its present location for many years. The location of the garage and its proximity to the house would not permit a handicap entrance into the rear of the house without a variance.
2. The requested § 5.153 and § 5.227 rear & side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' garage has existed in its present location for many years. The location of the garage and its proximity to the house would not permit a handicap entrance into the rear of the house without a variance.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested § 5.153 and § 5.227 rear & side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested § 5.153 and § 5.227 side & rear yard variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing resolution to approve the application for the requested § 5.153 and § 5.227 side & rear yard variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DECISION

PERFORMANCE STANDARDS REVIEW

To: Instrumentation Laboratory

ZBA # 12-71

526 Route 303  
Orangeburg, New York 10962

Date: October 3, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-71: Application of Instrumentation Laboratory pursuant to Section 4.1, Chapter 43 (Zoning) Use subject to Performance Standards Conformance Review with respect to operations performed at the existing plant. The premises are located at 526 Route 303, Orangeburg, New York and identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 45, in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2012 at which time the Board made the determination hereinafter set forth.

Scott Case, General Manger, and Randall Vlasak ,Engineer Facilities Manager, appeared and testified.

The following documents were presented:

1. Copy of current layout within building.
2. Equipment list (6 pages).
3. Emission Point Locations (1 page).
4. Chemical list and storage locations (7 pages).
5. Four flash drives containing the material safety data sheets for all of the chemicals listed.
6. Performance Standards Resume of Operations and Equipment form dated July 25, 2012 and signed by Randall F. Vlasak.
7. Fire Prevention Supplement.
8. A letter dated August 29, 2012 from the Department of Environmental Management and Engineering, Town of Orangetown signed by Joseph J. Moran, P.E., Commissioner.
9. A memorandum dated August 1, 2012 from the Bureau of Fire Prevention, Town of Orangetown, signed by Douglas A. Sampath, Assistant Fire Inspector.
10. A memorandum dated August 22, 2012 from the Bureau of Fire Prevention, Town of Orangetown, signed by Michael B. Bettmann, Chief Fire Inspector.
11. A Certificate of Compliance-Fire Safety (285-12) which expires August 8, 2014.
12. A letter dated September 5, 2012 from the County of Rockland, Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
13. A letter dated August 21, 2012 from the County of Rockland, Rockland County Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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 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. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Randall Vlasak testified that the company prepares chemical ingredients in bulk form; that they are used for blood and in-vitro analysis; that they prepare the agents (chemical ingredients) fill small vials, label cap and package them for distribution and others are freeze dries or stored in liquid form; that the same process was performed by Fisher Diagnostics on this site since 1996; that they came in for a building permit to add more refrigeration and that permit application prompted the application for performance standards; that they can mix up to 1,000 liters or 400 gallons at a time and sometimes as little as a soup container; that the tanks are on wheels and can be moved from one area to another for use; and that the plan is labeled to show where everything is stored.

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. Salomon 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:

Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated August 29, 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 August 22, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.), the letter dated August 21, 2012 from Scott Mc Kane, P.E., Senior Public Health Engineer, County of Rockland Department of Health, the letter dated September 5, 2012 from Thomas Vanderbeek, Commissioner of Planning, County of Rockland Department of Planning, the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown B.F.P., letter dated August 22, 2012; **AND FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

#### General Conditions:

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

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

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

(iv) A building permit as well as any other necessary permits must be obtained within a

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

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

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

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





















