

MINUTES  
ZONING BOARD OF APPEALS  
October 7, 2009

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

ABSENT:                    NONE

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 Chairman Mr. Mowerson.

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

PUBLISHED ITEMS

APPLICANTS

DECISIONS

SIMONELLI 77.20 / 2 / 18; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA#09-63
SURPRENANT 69.17 / 4 / 52; R-15 zone	SIDE YARD, TOTAL SIDE YARD, BUILDING HEIGHT VARIANCES APPROVED	ZBA#09-64
VERSCHNEIDER 77.05 / 2 / 50; R-15 zone	REAR YARD VARIANCE APPROVED	ZBA #09-65
BROOKS PERFORMANCE STANDARDS 77.16 / 1 / 32; LIO zone	APPROVED	ZBA#09-66
WYETH BLDG. 215 A PERFORMANCE STANDARDS 68.08 / 1 / 1; LI zone	APPROVED	ZBA#09-67

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.

Dated: October 7, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

DISTRIBUTION:

Deborah Arbolino  
Administrative Aide

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

DECISION

**REAR YARD VARIANCE APPROVED**

To: Peter and Hannah Simonelli

ZBA # 09-63

774 Route 340

Date: 10/ 7 / 09

Palisades, New York 10964

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-63: Application of Peter and Hannah Simonelli for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Group M, Column 11 (Rear Yard: 35' required, 27' proposed) for a deck at an existing single-family residence. The premises are located at 774 Route 340, Palisades, New York, and are identified on the Orangetown Tax Map as Section 77.20, Block 2, Lot 18; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 7, 2009 at which time the Board made the determination hereinafter set forth.

Peter Simonelli appeared and testified.

The following documents were presented:

1. Proposed deck plans not dated.
2. Site plan with the proposed deck drawn on it.
3. A letter dated September 9, 2009 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
4. A letter dated September 21, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; Mr.

Sullivan; aye; and Mr. Mowerson, aye.

Peter Simonelli testified that he wants to build a deck in his rear yard; that the requirement is for a 35' rear yard and he is asking for a 27' rear yard; that he has owned the house for a little over two years and would like to cover the ground floor patio with the deck; that his neighbor's house is approximately 45 feet from his back fence which is 27 feet from his deck; and that there are three people in his family.

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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the area.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks 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.
4. The requested rear yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar decks 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.

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

DATED: October 7, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

**SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES  
APPROVED; SECTION 5.21 UNDERSIZED LOT APPLIES**

To: Andre and Nimisha Surprenant

ZBA # 09-64

92 South Mountainview Avenue  
Pearl River, New York 10965

Date: 10/7/09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-64: Application of Andre and Nimisha Surprenant for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.12, Group M, R-15 District, Columns 9 (Side Yard: 15' required, 8.8' existing and proposed on right side and 9.2' existing on left side), 10 (Total Side Yard: 30' required, 18' existing), 12 (Building Height: 20' permitted, 24.5' existing, 26' proposed), (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises is located at 92 South Mountainview Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.17, Block 4, Lot 52; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 7, 2009 at which time the Board made the determination hereinafter set forth.

Andre and Nimisha Surprenant and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/09/09 (2 pages) with the latest revision date of 7/29/09 signed or sealed by Jane Slavin Architect.
2. Site plan dated 6/30/09 signed and sealed by Jane Slavin. Architect..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Andre Surprenant testified that they own the house for twelve years; that they have two children; that the bedrooms are extremely small; that they are planning to expand the living space and add study areas and a bathroom upstairs.

Jane Slavin, Architect, testified that the proposed addition will expand the rear of the house by 12 feet; that they are proposing a two story addition with a basement; that the existing house is very small, it is only 1,228 square feet; that the proposed addition is 960 square feet; that house will only be 2,188 square feet; that the variances being requested are for existing conditions; that the tax map shows that there are four or five houses in a row that are on non-conforming undersized lots; that the roof line will not change; that it is just being continued out the back over the proposed addition; that the look of the house is not being changed; that the house was built around 1930; and that it will be similar to the house to the north that did a similar addition.

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, total side yard and building height variances are pre-existing and the proposed addition 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, total side yard and building height variances are pre-existing and the proposed addition 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.
4. The requested side yard, total side yard and building height variances are pre-existing, and the proposed addition will not have an adverse effect or impact on the physical or environmental conditions of the area. 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.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested side yard, total side yard and building height 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, total side yard and building height variances was presented and moved by Ms. Albanese, 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.

DATED: October 7, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

**REAR YARD VARIANCE APPROVED**

To: Michael and Maureen VerSchneider

ZBA #09-65

182 Washington Avenue

Date: 10/7/09

Tappan, New York 10983

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-65: Application of Michael and Maureen VerSchneider for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Section 3.12, Group M, Column 11 (Rear Yard: 35' required, 27.5' existing) for an existing deck at a single family residence. The premises are located at 182 Washington Avenue, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.05, Block 2, Lot 50; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 7, 2009 at which time the Board made the determination hereinafter set forth.

Michael and Maureen VerSchneider and Maura Pearlman Beal appeared and testified.

The following documents were presented:

1. Site plan dated November 21, 2008 signed and sealed by John Deans, Architect.
2. One letter in support of the application.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Maureen VerSchneider testified that they purchased the house in July 2008; that the existing deck did not have a certificate of occupancy; that money was put in an escrow account until the situation could be resolved; that John Deans, Architect, certified the construction of the deck; that the electric was inspected and the previous owner is here.

Maura Pearlman Beal, previous owner, testified that she called the building department and was told that she did not need a permit to cover her existing patio with a wood; that she didn't know until selling the house that she needed a permit; and that money is being held in escrow until the VerSchneider's get the certificate of occupancy for the deck.

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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the area.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks 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. Similar decks have been constructed in the area.
4. The requested rear yard variance, although substantial, will not have an adverse



effect or impact on the physical or environmental conditions of the area. Similar decks 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.

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; 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. Salomon, seconded by Mr. Sullivan, and carried as follows: Ms. Albanese, aye; Mr. Sullivan, 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.

DATED: October 7, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

**PERFORMANCE STANDARDS APPROVED WITH CONDITIONS**

To: Pierre Brooks

ZBA # 09-66

7 Rockland Park Ave.  
Tappan, New York 10983

Date: 10 / 7 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-66: Application of Pierre Brooks for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.11, LIO District, Column 4, # 4 Section 4.12 Performance Standards Review for bird seed mixing and packaging. Premises are located at 7 Rockland Park Road, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.16 Block 1 Lot 32; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 7, 2009 at which time the Board made the determination hereinafter set forth.

Pierre Brooks and David Simmons appeared and testified.

The following documents were presented:

1. Use Subject to Performance Standard Resume of Operations and Equipment.
2. Site plan.
3. Floor plan.
4. Univar USA Inc. (8 pages)
5. Short Environmental Assessment Form dated 11/16/08.
6. A letter dated September 28, 2009 from the Department of Environmental Management and Engineering, Town of Orangetown signed by Ronald C. Delo, P.E. Acting Director.
7. A memorandum dated September 22, 2009 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
8. A letter from the County of Rockland Department of Planning dated September 23, 2009 signed by Salvatore Corallo, Commissioner of Planning.

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 exempt from the State Environmental Quality Review Act (SEQRA) pursuant to SEQRA Regulations §617.5 (c) (28) engaging in a review to determine compliance with technical requirements which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye.

Pierre Brooks testified that the company mixes bird and reptile food; that they use hempseed, pigeon peas, cracked wheat, cous cous, hulled miller, walnuts, basmati rice,

etc. ; that different ingredients are opened and put into the mixer by hand and mixed by machine; that after the ingredients are mixed they are bagged, sealed and labeled for distribution to stores like Pet Smart; that the various mixes are sold in 1,2,5, and 50 pound bags; that they also grow and sell Wheatgrass; that the growing area is marked on the floor plan; that the wheatgrass grows in four days under special fluorescent lights; that they are moving up to Orangetown from the Bronx; and that they will have a maximum of ten employees.

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 a personal inspection of the premises the week prior to the meeting and found them to be properly posted and as generally described on the application.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated 9/22/2009 from Michael Bettmann, Chief Fire Inspector, Bureau of Fire Prevention of the Town of Orangetown, the letter of the Director of the Orangetown Department of Environmental Management and Engineering dated September 28, 2009, concluding there is no reasonable doubt as to the likelihood of applicant's conformance, the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Chapter 43, Section 4.1 will result, sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Building Department and all other departments having jurisdiction of the premises.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Bureau of Fire Prevention; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

(iii) The Board gives no approval of any 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 Performance Standards Conformance approval as conditioned was presented and moved by Mr. Mowerson, seconded by Ms. Castelli, and carried as follows: Ms. Salomon, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, 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.

DATED: October 7, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

**PERFORMANCE STANDARDS APPROVED WITH CONDITIONS**

To: Wyeth (Andrew Karcz)  
Building 140/109  
401 N. Middletown Road  
Pearl River, New York 10965

ZBA # 09-67

Date: 10 / 7 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-67: Application of Wyeth Building 215 A for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, Section 3.11, LI District, Column 4, # 4 Section 4.12 Performance Standards Review for the expansion of building 215 A.. Premises are located at 401 North Middletown Road, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.08 Block 1 Lot 1; LI zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 7, 2009 at which time the Board made the determination hereinafter set forth.

Anthony Valenti and John Banyo appeared and testified.

The following documents were presented:

1. Use Subject to Performance Standard Resume of Operations and Equipment.
2. Site plan, 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> floor plans for building 215A dated 8/31/09 signed and sealed by Robert York, Architect.
3. A letter dated September 23, 2009 from the Department of Environmental Management and Engineering, Town of Orangetown signed by Ronald C. Delo, P.E., Director.
4. A memorandum dated September 24, 2009 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
5. A letter from the County of Rockland Department of Planning dated October 6, 2009 signed by Salvatore Carollo, Commissioner of Planning.

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 exempt from the State Environmental Quality Review Act (SEQRA) pursuant to SEQRA Regulations §617.5 (c) (28) engaging in a review to determine compliance with technical requirements which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Mowerson, aye; Ms. Salomon, aye; Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan, aye.

John Banyo testified that building 215A will be used for storage of utility equipment, refrigeration, offices, lockers and gowning area for employees working in 215; that pre-rinsed bulk containers will be stored in 215A and 6 to 12 five gallon drums of the bulk vaccine may be stored in the chiller.

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 a personal inspection of the premises the week prior to the meeting and found them to be properly posted and as generally described on the application.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. Based upon the information contained in applicants' Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated 9/24/2009 from Michael Bettmann, Chief Fire Inspector, Bureau of Fire Prevention of the Town of Orangetown, the letter of the Director of the Orangetown Department of Environmental Management and Engineering dated 9/23/09, concluding there is no reasonable doubt as to the likelihood of applicant's conformance, the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Chapter 43, Section 4.1 will result, sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the

Building Department and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for Performance Standards Conformance is APPROVED with the SPECIFIC CONDITION that the applicant adhere to all of the requirements set forth by the Bureau of Fire Prevention; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

(iii) The Board gives no approval of any 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 Performance Standards Conformance Approval as conditioned was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Ms. Salomon, aye; Mr. Mowerson, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Albanese, 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.

DATED: October 7, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide















