

**Meeting of November 28 2012**  
**Town of Orangetown Planning Board**

**MEMBERS PRESENT:** Kevin Garvey, Chairperson; Bruce Bond, Vice-Chairperson, John Foody, Robert Dell and Michael Mandel;

**MEMBERS ABSENT:** William Young and Jeffrey Golda

**ALSO PRESENT:** John Giardiello, Director, Office of Building, Zoning, Planning Administration and Enforcement, Robert Magrino, Deputy Town Attorney; Ann Marie Ambrose, Stenographer, and Cheryl Coopersmith, Chief Clerk

Kevin Garvey, Chairperson, called the meeting to order at 7:30 p.m. Mr. Garvey read the agenda. Hearings as listed on this meeting's agenda which are made a part of these minutes were held as noted below:

**New Item:**

**Saperstein Retaining Wall Plan**  
Prepreliminary/ Preliminary/ Final  
Site Plan and SEQRA Review  
Critical Environmental Area  
71.17/1/21.3; R-22 zoning district

**PB #12- 51**  
**Final Site Plan**  
**Approval Subject to**  
**Conditions/ Neg. Dec.**

**Continued Item from September 24, 2012 Meeting:**

**Heaton-Fitzgerald Subdivision**  
**Performance Bond**  
Request for an Extension of  
Performance Bond Term  
77.14/1/5.1, 5.2, 5.3; R-15 zoning district

Subdivision Plan  
Prepreliminary/ Preliminary/ Final  
Subdivision Plan and SEQRA Review  
74.18/3/32; LI & LO zoning districts

**Continued Items from May 9, 2012 Meeting:**

**Miele Subdivision Plan**  
Prepreliminary/ Preliminary  
Site Plan and SEQRA Review  
.18/3/32; LI & LO zoning districts

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**Miele Site Plan**

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**TOWN OF ORANGETOWN PLANNING BOARD**

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The Decisions of the above hearings, as attached hereto, although made by the Board before the conclusion of the meeting are not deemed accepted and adopted by the Board until adopted by a formal motion for adoption of such minutes by the Board. Following such approval and adoption by the Board, the Decisions are mailed to the applicant. The verbatim transactions are not transcribed, **but are** available.

Since there was no further business to come before the Board, a motion to adjourn the meeting was made by Bruce Bond and seconded by John Foody and agreed to by all in attendance. The meeting was adjourned at 8:30 p.m. The next Planning Board meeting is scheduled for Wednesday, December 12, 2012.

**DATED: November 28, 2012**  
**Town of Orangetown Planning Board**

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**PB #12-51: Saperstein Site Plan: Final Site Plan Approval Subject to Conditions/ Neg. Dec.**

**Town of Orangetown Planning Board Decision**

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TO: Lewis Saperstein, 115 Tweed Boulevard, Upper Grandview,  
New York 10960

FROM: Orangetown Planning Board

RE: Saperstein Retaining Wall Plan: The application of Lewis Saperstein, owner, for Prepreliminary/ Preliminary/ Final Site Plan Review of the repair of existing gabion walls at a site known as "**Saperstein Retaining Wall Plan**", located in the Critical Environmental Area, in accordance with Article 16 of the Town Law of the State of New York, the Land Development Regulations of the Town of Orangetown, Chapter 21A of the Code of the Town of Orangetown and to determine the environmental significance of the application pursuant to the requirements of the New York State Environmental Quality Review Act. The site is located at 115 Tweed Boulevard, Upper Grandview, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 71.17, Block 1, Lot 21.3 in the R-22 zoning district.

Heard by the Planning Board of the Town of Orangetown at a meeting held **Wednesday, November 28, 2012** at which time the Board made the following determinations:

Lewis Saperstein and Douglas Doolittle appeared and testified.

The Board received the following communications:

1. Project Review Committee Report dated November 21, 2012.
2. An interdepartmental memorandum from the Office of Building, Zoning, Planning Administration and Enforcement, Town of Orangetown, signed by John Giardiello, **P.E.**, Director, dated November 28, 2012.
3. An Interdepartmental memorandum from the Department of Environmental Management and Engineering (DEME), Town of Orangetown, signed by Bruce Peters, P.E., November 20, 2012.
4. A letter from Brooker Engineering, PLLC, signed by Kenneth DeGennaro,

P.E., dated October 24, 2012.

5. A letter from Rockland County Department of Planning, signed Thomas B. Vanderbeek, P.E., Commissioner of Planning, dated November 5, 2012.

6. Letters from Rockland County Department of Highways, signed by Joseph Arena, Senior Engineering Technician, dated November 21, 2012.

7. Letters from Rockland County Department of Health, signed by Scott McKane, P.E., Senior Public Health Engineer, dated October 19, 2012.

8. A letter from Rockland County Sewer District No. 1, signed by Joseph LaFiandra, Engineer 11, dated October 31, 2012.

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9. A letter from the New York State Department of Transportation, dated November 6, 2012, signed by Ursus A. Idosu, MBA, **P.E., PTOE, SEQRA/ HWP** Unit.
10. A letter from William Mowerson, Chairman, Town of Orangetown Zoning Board of Appeals, dated October 17, 2012.
11. A Short Environmental Assessment Form, signed by Lewis Saperstein, dated October 14, 2012.
12. Retaining Wall Calculations for Saperstein dated April 2, 2012.
13. Plan entitled "Wall Replacement Plan-Saperstein," prepared by Albert D. Delima, PE., dated May 3, 2012.
14. Submitted at the meeting, revised plans entitled "Wall Replacement Plan-Saperstein," prepared by Albert D. Delima, PE, dated May 3, 2012, last revision date of November 13, 2012.

The Board reviewed the plan.

There being no one to be heard from the Public, a motion was made to close the Public Hearing portion of the meeting by Bruce Bond and second by Michael Mandel and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; Michael Mandel, aye; William Young, absent; Robert Dell, aye; John Foody, aye; and Jeffrey Golda, absent.

The proposed action is classified as an "unlisted action" as defined by Section 617.2 (ak) of the New York State Environmental Quality Review Regulations (SEQRR). No agency, other than the Orangetown Planning Board will have any significant involvement in the review process, pursuant to Section 617.6 of SEQRA. On motion by Bruce Bond and seconded by John Foody and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; Michael Mandel, aye;

William Young, absent; Robert Dell, aye; John Foody, aye and Jeffrey Golda, absent, the Board declared itself Lead Agency.

Pursuant to New York Code, Rules & Regulations (NYCRR) Section 617.7, the Town of Orangetown Planning Board, as lead agency, for the reasons articulated in this Board's analysis of all of the submissions by the applicant, interested agencies, departments and the public, with respect to this project including the Environmental Assessment Form, which reasons are summarized in the motion, hereby determines that the proposed action will not have a significant impact on the environment and a Draft Environmental Impact Statement (DEIS) will not be prepared.

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After having identified the relevant areas of environmental concern, namely drainage, surface water runoff, land clearing, vegetation, fauna, traffic and noise levels, and after having taken a hard look at said environmental issues, and after having deliberated regarding such concerns, and having heard from the applicant, the applicant's professional representatives, namely Albert D. Delima, PE, and the Town of Orangetown's engineering consultant, Brooker Engineering, and having heard from the following offices, officials and/or Departments: (Town of Orangetown): Project Review Committee, Office of Building, Zoning, Planning Administration and Enforcement and Department of Environmental Management and Engineering; and having heard from the following involved and interested agencies: Town of Orangetown Zoning Board of Appeals, Rockland County Department of Health, Rockland County Department of Highways, Rockland County Sewer District No.1, New York State Department of Transportation, and having reviewed a Plan by prepared by Albert D. Delima, PE, dated May 3, 2012, a summary of the reasons supporting this determination are, and the Planning Board finds that the proposed action:

- Will not significantly affect existing air quality or noise levels;
- Will not significantly affect existing surface water quality or quantity or drainage;
- Will not significantly affect existing ground water quality or quantity;
- Will not significantly affect existing traffic levels;
- Will not create a substantial increase in solid waste production;
- Will not create a potential for erosion, flooding, leaching or drainage problems;
- Will not have a significant adverse impact on the environmental characteristics of our critical environmental area or environmentally sensitive sites or features;
- Will not have an impairment of the character or quality of important historical, archeological or architectural resources;
- Will not have an impairment of the character or quality of important aesthetic



resources;

- Will not have an impairment of existing community or neighborhood character;
- Will not remove or destroy large quantities of vegetation or fauna;
- Will not remove or destroy large quantities of wildlife species or migratory fish;
- Will not have a significant adverse impact to natural resources;
- Is consistent with the Town of Orangetown's Comprehensive/Master Plan;
- Will not have adverse economic or social impacts upon the Town;
- Will not create a hazard to human health; and
- Will not create a substantial change in the use of land, open space or recreational resources.

**PB #12-51: Saperstein Site Plan: Final Site Plan Approval Subject to Conditions! Neg. Dec.**

**Town of Orangetown Planning Board Decision**

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On motion by Bruce Bond and seconded by Michael Mandel and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; Michael Mandel, aye; Robert Dell, aye; John Foody, aye; William Young, absent; and Jeffrey Golda, absent the Board made a Negative Declaration pursuant to SEQRA.

**DECISION:** In view of the foregoing and the testimony before the Board, the application was **GRANTED A FINAL SITE PLAN APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The following note shall be placed on the Site Plan: At least one week prior to the commencement of any work, including the installation of erosion control devices or the removal of trees and vegetation, a pre-construction meeting must be held with the Town of Orangetown Department of Environmental Management and Engineering, Superintendent of Highways and the Office of Building, Zoning and Planning Administration and Enforcement. It is the responsibility and obligation of the property owner to arrange such a meeting."
2. The following note shall be placed on the Site Plan regarding Stormwater Management Phase II Regulations: Additional certification, by an appropriate licensed or certified design professional shall be required for all matters before the Planning Board indicating that the drawings and project are in compliance with the Stormwater Management Phase [1 Regulations.
3. The Short Environmental Assessment Form appears to be in order.
4. The North property line shall be staked in the field prior to the start of construction.
5. The contractor shall protect the septic area from disturbance when removing

the existing walls and constructing the new walls. The applicant shall describe how this will be accomplished as a note on the plan.

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**9.** The Drainage Consultant to the Planning Board, Brooker Engineering, reviewed the submitted drainage report and found that with respect to drainage, the proposed project will not result in any potential significant adverse impacts with respect to drainage. We therefore recommend that the Saperstein Retaining Wall Site Plan be approved for drainage subject to the following Project Comments.

**Project Description**

The property is located on the east side of Tweed Boulevard and slopes downhill to the east. The project consists of replacing an existing two-tiered gabion basket retaining wall **with** a new two-tiered gabion basket retaining wall at approximately the same location and heights.

The proposed wall location is the same as existing conditions. No new impervious area is proposed. Existing retaining wall heights drainage patterns are being maintained. Disturbance is less than one acre; no post construction stormwater detention and water quality mitigation measures are proposed and none are required.

**Project Comments**

- 1)** The "Retaining Wall Calculations for Saperstein" shall be signed and sealed by a New York State licensed professional engineer.
- 2)** Map Note 5 under the Gabion Basket Retaining Wall Detail shall be amended to include, "As-built construction of the retaining walls shall be certified by a New York State licensed professional engineer."
- 3)** The underdrains at the footing for each tier of the retaining wall shall be shown on the Site Plan and the proposed outlets indicated. The underdrain pipe material shall be noted on the plan. The outlets shall be adequately armed to prevent erosion; a detail shall be provided

demonstrating this.

4) A map note shall be added to the Site Plan indicating the total site disturbance.

5) The limit of excavation for the proposed upper retaining wall is approximately 15 feet away from the existing septic pits. A pondliner is proposed along the limit of excavation for the retaining wall, presumably to prevent groundwater from the septic tanks from weeping through the upper gabion wall. The Rockland County Department of Health has jurisdiction over the subsurface sewage disposal system and they should review and approve the Site Plan.

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**Continuation of Condition #9.**

6) The Site Plan has the note "Proposed 20 mt. pondliner to be set at bottom of excavation of wall, actual location to be determined by engineer at time of construction." In making this field decision, the applicant's engineer shall evaluate that the location of the pondliner will not direct any The applicant's engineer should verify this to the Town of Orangetown Building Department as part of the certification of the as-built construction of the retaining wall. A map note shall be added indicating this requirement.

10. Rockland County Department of Planning had the following comments which are incorporated herein as conditions of approval:

- o A review shall be completed by the County of Rockland Department of Highways and all required permits obtained.
- Prior to any grading or construction on the site, a soil and erosion control plan shall be developed that meets the New York State Guidelines for Urban Erosion and Sediment Control.
- The clearing limits of the wall replacement must be clearly delineated in the field prior to any grading or construction site to avoid any encroachments into this area.
- A review shall be completed by the New York State Department of Transportation and any required permits obtained.

11. The Rockland County Department of Highway offered the following comments:

1. A Rockland County Highway Work Permit will be required for the proposed construction and must be secured prior to the start of any excavation or construction on the site.
2. Tweed Boulevard must remain open to all traffic during construction.
3. There shall be no staging of vehicles along Tweed Boulevard.
4. Any damage that may occur to the shoulder area along Tweed Boulevard must be restored in kind.

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**12.** The Rockland County Department of Health reviewed the plans and based on the information provided, there are no Rockland County Department of Health approvals needed for this project.

**13.** The Rockland County Sewer District #1 does not object to the plan as shown. This project does not affect any sanitary sewers within the District and request no future correspondence for this site.

**14.** The New York State Department of Transportation (NYSDOT) reviewed the plans and found that all proposed work within the NYSDOT Right of Way requires a Highway Work Permit (HWP). Generally, a detailed engineering review is necessary and required for issuance of any HWP. Note that any proposed work or modification to the existing property plan, use or traffic operations may necessitate an updated access review for the proposed project. Contact Mary Jo Russo, Rockland County Permit Field Engineer to initiate the review process.

**15.** The following agencies do not object to the Town of Orangetown Planning Board assuming responsibilities of lead agency for SEQRA purposes:

- Rockland County Department of Health
- Rockland County Department of Highways
- Rockland County Sewer District #1
- Town of Orangetown Zoning Board of Appeals
- New York State Department of Transportation

**16.** The applicant shall comply with all pertinent items in the Guide to the Preparation of Site Plans prior to signing the final plans.

**17.** All reviews and approvals from various governmental agencies must be obtained prior to stamping of the Site **Plan**.



**18.** All of the conditions of this decision, shall be binding upon the owner of the subject property, its successors and for assigns, including the requirement to maintain the property in accordance with the conditions of this decision and the requirement, if any, to install improvements pursuant to Town Code §21A-9. Failure to abide by the conditions of this decision as set forth herein shall be considered a violation of Site Plan Approval pursuant to Town Code §21A-4\_

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**19. TREE PROTECTION:** The following note shall be placed on the Site Plan: The Tree Protection and Preservation Guidelines adopted pursuant to Section 21-24 of the Land Development Regulations of the Town of Orangetown will be implemented in order to protect and preserve both individual specimen trees and buffer area with many trees. Steps that will be taken to reserve and protect existing trees to remain are as follows:

- a. No construction equipment shall be parked under the tree canopy.
- b. There will be no excavation or stockpiling of earth underneath the trees.
- c. Trees designated to be preserved shall be marked conspicuously on all sides at a 5 to 10 foot height.
- d. The Tree Protection Zone for trees designated to be preserved will be established by one of the following methods:
  - One ( 1 ) foot radius from trunk per inch DBH
  - Drip line of the Tree Canopy. The method chosen should be based on providing the maximum protection zone possible. A barrier of snow fence or equal is to be placed and maintained one yard beyond the established tree protection zone. If it is agreed that the tree protection zone of a selected tree must be violated, one of the following methods must be employed to mitigate the impact:
    - Light to Heavy Impacts — Minimum of eight inches of wood chips installed in the area to be protected. Chips shall be removed upon completion of work.
    - Light Impacts Only — Installation of 3/1 inch of plywood or boards, or equal over the area to be protected.

The builder or its agent may not change grade within the tree protection zone of a preserved tree unless such grade change has received final approval from the Planning Board. If the grade level is to be changed more than six (6) inches, trees designated to be preserved shall be welled

and/or preserved in a raised bed, with the tree well a radius of three (3) feet larger than the tree canopy.

**20.** All landscaping shown on the Site Plans shall be maintained in a vigorous growing condition throughout the duration of the use of this site. Any plants not so maintained shall be replaced with new plants at the beginning of the next immediately following growing season.

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**21.** Prior to the commencement of any site work, including the removal of trees, the applicant shall install the soil erosion and sedimentation control as required by the Planning Board. Prior to the authorization to proceed with any phase of the site work, the Town of Orangetown Department of Environmental Management and Engineering (DEME) shall inspect the installation of all required soil erosion and sedimentation control measures. The applicant shall contact DEME at least 48 hours in advance for an inspection.

**22.** The contractor's trailer, if any is proposed, shall be located as approved by the Planning Board.

**23.** If the applicant, during the course of construction, encounters such conditions as flood areas, underground water, soft or silty areas, improper drainage, or any other unusual circumstances or conditions that were not foreseen in the original planning, such conditions shall be reported immediately to DEME. The applicant shall submit their recommendations as to the special treatment to be given such areas to secure adequate, permanent and satisfactory construction. DEME shall investigate the condition(s), and shall either approve the applicant's recommendations to correct the condition(s), or order a modification thereof. **In the** event of the applicant's disagreement with the decision of DEME, or in the event of a significant change resulting to the subdivision plan or site plan or any change that involves a wetland regulated area, the matter shall be decided by the agency with jurisdiction in that area (i.e. Wetlands - U.S. Army Corps of Engineers).

**24.** Permanent vegetation cover of disturbed areas shall be established on the site within thirty (30) days of the completion of construction.

**25.** Prior (at least 14 days) to the placing of any road sub-base, the applicant shall provide the Town of Orangetown Superintendent of Highways and DEME with

a plan and profile of the graded road to be paved in order that these departments may review the drawings conformance to the approved construction plans and the Town Street Specifications

**26.** The Planning Board shall retain jurisdiction over lighting, landscaping, signs and refuse control.

The foregoing Resolution was made and moved by Bruce Bond and seconded by Michael Mandel and carried as follows: Kevin Garvey, aye; Bruce Bond, aye; Michael Mandel, aye; William Young, absent; John Foody, aye; Robert Dell, aye; and Jeffrey Golda, absent.

The Clerk to the Board is hereby authorized, directed and empowered to sign this **DECISION** and **file** a certified copy in the Office of the Town Clerk and the Office of the Planning Board.

**State Environmental Quality Review Regulations  
NEGATIVE DECLARATION  
Notice of Determination of Non-Significance**

**PB #12-51: Saperstein Site Plan: Final Site Plan Approval Subject to  
Conditions/ Neg. Dec.**

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This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Regulation) of the Environmental Conservation Law.

The PLANNING BOARD, TOWN OF ORANGETOWN, as Lead Agency, has determined that the proposed action described below will not have a significant impact on the environment and a Draft Environmental Impact Statement will not be prepared.

**NAME OF ACTION: Saperstein Site Plan— Final Approval Subject to  
Conditions- Critical Environmental Area — Retaining Wall**

SEQR STATUS: Type I                      Unlisted XXXXXX  
CONDITIONED NEGATIVE DECLARATION: Yes                      No XXXXXX

**DESCRIPTION OF ACTION: Site Plan Review— Critical Environmental Area**

LOCATION: The site is located at 115 Tweed Boulevard, Upper Grandview, Town of Orangetown, Rockland County, New York, and as shown on the Orangetown Tax Map as Section 71.17, Block 1, Lot 21.3 in the R-22 zoning district.

**REASONS SUPPORTING THIS DETERMINATION:**

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

The project will not have a significant impact upon the environment and a DEIS need not be prepared because the proposed action does not significantly affect air quality, surface or ground water quality, noise levels or existing external traffic

patterns. In addition, it will have no impact upon the aesthetic, agricultural or cultural resources of the neighborhood. No vegetation, fauna or wildlife species will be affected as a result of this proposed development. The proposed action is consistent with the Town of Orangetown's Master Plan and will not have any adverse economic or social impacts upon the Town or its businesses or residences.

If Conditioned Negative Declaration, the specific mitigation is provided on an attachment.

For Further Information contact:

John Giardiello, P.E., Director, Office of Building, Zoning and Planning  
Administration and Enforcement; Town of Orangetown; 20 Greenbush Road  
Orangeburg, NY 10962; Telephone Number: 845-359-5100

For Type I Actions and Conditioned Negative Declarations, a copy of this notice is sent: - Commissioner, New York State Department of Environmental  
Conservation, - Region 3 Headquarters, NYSDEC, - Town Supervisor, Applicant  
- Involved Agencies