

MINUTES
ZONING BOARD OF APPEALS
September 9, 2009

MEMBERS PRESENT: PATRICIA CASTELLI
 WILLIAM MOWERSON
 JOAN SALOMON

ABSENT: DANIEL SULLIVAN
 NANETTE ALBANESE

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: 30 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

CONTINUED ITEM:

CHESTNUT PETROLEUM DISTRIBUTORS 74.10 / 1 / 68; CS zone	PARKING VARIANCE APPROVED	ZBA#09-39
---	------------------------------	-----------

NEW ITEMS:

COLLINS 77.08 / 1 / 40; R-15 zone	FRONT YARD AND SIDE YARD VARIANCES APPROVED	ZBA#09-53
--------------------------------------	---	-----------

BONHEUR 68.11 / 2 / 53; R-15 zone	POSTPONED	ZBA#09-54
--------------------------------------	-----------	-----------

SMITH 69.06 / 2 / 15; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA #09-55
------------------------------------	--------------------------------------	------------

SAUMA 70.11 / 1 / 5.1; R-80 zone	SIDE YARD VARIANCE APPROVED	ZBA#09-56
-------------------------------------	--------------------------------	-----------

ICCO CHESSE COMPANY PERFORMANCE STANDARDS 73.15 / 1 / 16; LIO zone	PERFROMANCE STANDARDS APPROVED	ZBA#09-57
--	-----------------------------------	-----------

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Sylar/Adams Retaining Wall Plans Critical Environmental Area, 915 Route 9W, Upper Grandview, 71.17 / 1 / 6; R-22 zone; and FURTHER RESOLVED, to request to be

notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:30 P.M.

Dated: September 9, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

FRONT YARD AND SIDE YARD VARIANCES APPROVED

To: James Collins
71 Eimer Street
Tappan, New York 10983

ZBA # 09-53
Date: 9 / 9 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-53: Application of James Collins for variances from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, Group M, R-15 District, Group M, Columns 8 (Front Yard: 30' required, 18.25 and 12.2' existing)' and 9 (Side Yard: 20' required, 16' existing) for an existing deck and pool at an existing single-family residence. The premises are located at 71 Eimer Street, Tappan, New York, and are identified on the Orangetown Tax Map as Section 77.08, Block 1, Lot 40; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 9, 2009 at which time the Board made the determination hereinafter set forth.

James Collins appeared and testified.

The following documents were presented:

1. Site plan dated July 23, 2009 signed and sealed by Bart M. Rodi, P.E.
2. Deck plans and deck elevations dated July 23, 2009 signed and sealed by Bart Rodi, P.E.

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

James Collins testified that the pool and deck were built years ago; that he hired a pool contractor that told him he did not need a permit and the deck was built by a different contractor that told him he would take care of everything; that he is selling his house now and would like to legalize everything; that he has had the electrical inspection; that his neighbor to the north is here to testify that the structures are probably about 150 to 200 feet from his house; and that he can't see the Palisades Parkway from his property because it is probably about 40; below his lot.

Public Comment:

George Peters, 55 Eimer Street, testified that the requested side yard is closest to his property but is still about 200' away from his house; that he has never had a problem with the structures and that he would support the granting of the variance.

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 front yard and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools and decks have been constructed in the area.
2. The requested front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar pools and 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 pools and decks have been constructed in the area.
4. The requested front yard and side yard variances although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar pools and 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 front yard and 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 front yard and side yard variances was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Albanese were absent.

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

DATED: September 9, 2009

ZONING BOARD OF APPEALS

TOWN OF ORANGETOWN

By _____
Deborah Arbolino
Administrative Aide

DECISION

TOTAL SIDE YARD VARIANCE APPROVED

To: Robert and Maureen Smith ZBA # 09-55
54 Cara Drive Date: 9/9/09
Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-55: Application of Robert and Maureen Smith for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown, R-15 District, Section 3.12, Group M, Column 10 (Total Side Yard: 50' required, 48.85' proposed) for a new modular single family residence. The premises are located at 54 Cara Drive, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.06, Block 2, Lot 15; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 9, 2009 at which time the Board made the determination hereinafter set forth.

Robert and Maureen Smith appeared and testified.

The following documents were presented:

1. Architectural plans dated 6/5/09 (16 pages) signed and sealed by Steven E. Fox, P.E.
2. Survey dated June 23, 2009 signed and sealed by James Drumm, L.S.
3. Plot plan dated 6/29/09 signed and sealed by Thomas Skrable, P.E.
4. Four letters in support of the application.

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

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

Robert Smith testified that the existing house is a 1400 sq. ft. split style house that was owned by an older gentleman that was not able to keep up with repairs on the structure; that he and his wife love older New England style homes and found a modular company that makes just the style house that they want; that they are proposing to knock down the existing house and install the modular that requires a 25'2" total side yard instead of the

required 25 feet; and that they have spoken to all of the immediate neighbors and they support the application.

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 total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar houses have been constructed in the area.
2. The requested total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar houses 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 houses have been constructed in the area.
4. The requested total side yard variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar houses 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 total side 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 total side yard variance was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Mowerson, aye. Mr. Sullivan and Ms. Albanese were absent.

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

DATED: September 9, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

SIDE YARD VARIANCE APPROVED

To: Jacques Sauma ZBA # 09-56

1 1st Class Marsico Court Date: 9 / 9 / 09
Blauvelt, New York 10913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-56: Application of Jacques Sauma for a variance from Chapter 43 (Zoning) of the Code of the Town of Orangetown Section 3.12, R-80 District, Group A, Column 9 (Side Yard: 30' required, 10' proposed) for the installation of an in-ground pool at a

single-family residence. Premises are located at 1 1st Class Marsico Court, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.11, Block 1, Lot 5.1; R-80 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 9, 2009 at which time the Board made the determination hereinafter set forth.

Canit and Jacques Sauma and Wayne Gavioli, Attorney, appeared and testified.

The following documents were presented:

1. Survey dated February 2, 2009 signed and sealed by Stephen Hoppe, L.S.

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

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

Wayne Gavioli, Attorney, testified that the Sauma's purchased the house partially complete on a huge lot; that they have done a lot of work to finish this house that was left incomplete; that the lot is 199, 668 sq. ft. but it is burdened with ponds, streams conservation easements and rough topography; that the only viable portion of the lot that could be used to construct the proposed pool is in the front portion of the property; that this also preserves the wilderness in the rear of the lot that has been rendered unusable by the conservation easement; that the Sauma's are fully taxed on this large lot; that the property is surrounded by woodlands and parkland; that the granting of the proposed side yard variance does not negatively impact any neighbors because there are no other residences bordering the lot; that vegetative buffer on the plans is not a restrictive conservation easement; and that if the Board requires it the applicants will add some buffer on the outside of the pool area.

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools have been constructed in the area and this side yard borders parkland.
2. The survey clearly defines a vegetative buffer in the area of the proposed pool. Although not a condition of this approval/grant, the Board suggests that the OBZPAE take note of this buffer area.
3. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar pools have been constructed in the area and this side yard borders parkland.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. Similar pools have been constructed in the area and this side yard borders parkland.
5. The requested side yard variance although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area. Similar pools have been constructed in the area and this side yard borders parkland.
6. 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.
- 7.

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

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

DATED: September 9, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DECISION

PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Joseph Angiolillo (Icco Cheese)
One Olympic Drive
Orangeburg, New York 10962

ZBA # 09-57

Date: 9 / 9 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-57: Application of Icco Cheese Co. LLC for a variance from Chapter 43 (Zoning) Code of the Town of Orangetown Section 3.11, LIO District, Column 4, # 4 Section 4.12 Performance Standards Review for storage and packaging of bread crumb products. Premises are located at 8 Olympic Drive, New York, and are identified on the Orangetown Tax Map as Section 73.15 Block 1 Lot 16; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 9, 2009 at which time the Board made the determination hereinafter set forth.

John and Joseph Angiolillo appeared and testified.

The following documents were presented:

1. Use Subject to Performance Standard Resume of Operations and Equipment.
2. Four page brochure of Icco cheese products.
3. Floor plan (1 page).Forming machines detail sheets.
4. PackLine Equipment: 3M-Matic 120af Adjustable Case Sealer,Whiz-Lifter, Polycarbonate conveyor buckets.
5. Short Environmental Assessment Form dated 11/16/08.

6. A letter dated September 9, 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 August 13, 2009 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
8. A letter from the County of Rockland Sewer District No.1 dated September 3, 2009 signed by Joseph LaFiandra, Engineer II..
9. A letter from the County of Rockland Department of Health dated July 16, 2009 signed by Scott McKane, P.E., Senior Public Health Engineer.

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; and Ms. Castelli, aye. Ms. Albanese and Mr. Sullivan were absent.

John Angiolillo testified that the conforming machine makes the paper board canister that the entire operation is conducted by the machines; that there are no chemicals in the operation; that the machines are greased with zenepex a food grade grease; and that the new machine for making cartons permits one truck to deliver enough material to construct the same amount of cartons that would have filled 14 trucks if they were pre-assembled.

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 8/13/2009 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown, the letter of the Director of the Orangetown Department of Environmental Management and Engineering dated 9/9/09, 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. Castelli, and carried as follows: Ms. Salomon, aye; Mr. Mowerson, aye; and Ms. Castelli, aye. Mr. Sullivan and Ms. Albanese were absent.

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

DATED: September 9, 2009

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

