

ZONING BOARD OF APPEALS

Town of Orangetown
20 Greenbush Road
Orangeburg, New York 10962
(914) 359-8410 (ex. 4331)
Date: June 24, 2022
TO: OBAPAE

✓ Environmental Management and Engineering
✓ Rockland County Sewer District #1
New York State Dept. of Transportation
Palisades Interstate Park Commission
Orange and Rockland Utilities
Orangetown Highway
Fire Prevention (Performance Standards)

Rockland County Drainage ✓
Rockland County Health ✓
Rockland County Planning ✓
Rockland County Highway ✓

Review of Plans: Asahi Refining, 875 Western Highway, Blauvelt, NY

Section 65.13 Block 1 Lot 2 LO zone

This matter is scheduled for:

Chapter 43, LO District, Section 5.226 Fence Height: 8' fence requires a 5'4" setback from the property line along side and rear yards: 0'0" proposed for the north property line.

Please review the information enclosed and provide comments. These comments may be mailed, e-mailed or faxed to the Zoning Board Office.

If your Agency does not have any comments at this time, please respond to this office by sending back this sheet.

- US Postal: 20 South Greenbush Road, Orangeburg, NY 10962
- Email to Zoning Board: darbolino@orangetown.com or
- Fax to the Town of Orangetown ZBA @845 359 8526

Zoning Board Meeting Date: September 7, 2022

- () Comments attached
- () No Comments at this time. Please send future correspondence for review.
- () No future correspondence for this site should be sent to this agency. Plans reviewed and this agency does not have any further comments.
- () This project is out of the jurisdiction of this agency and has no further comments.

This project is before the Zoning Board on **Wednesday, September 7, 2022**. **Kindly forward your completed review to this office by September 7, 2022.**

Reviewing Agency _____

Name _____ date: _____

Signature: _____

Thank you, Deborah Arbolino

Name of Municipality: TOWN OF ORANGETOWN

Date Submitted: _____

Please check all that apply:

<input type="checkbox"/> Planning Board <input type="checkbox"/> Zoning Board of Appeals <input type="checkbox"/> Subdivision <input type="checkbox"/> Number of Lots <input type="checkbox"/> Site Plan <input type="checkbox"/> Conditional Use <input type="checkbox"/> Special Permit <input type="checkbox"/> Variance <input type="checkbox"/> Performance Standards Review <input type="checkbox"/> Use Variance <input type="checkbox"/> Other (specify): _____	<input type="checkbox"/> Commercial <input type="checkbox"/> Residential <input type="checkbox"/> Historical Board <input type="checkbox"/> Architectural Board <input type="checkbox"/> Consultation <input type="checkbox"/> Pre-Preliminary/Sketch <input type="checkbox"/> Preliminary <input type="checkbox"/> Final <input type="checkbox"/> Interpretation
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PERMIT#: _____
ASSIGNED
INSPECTOR: _____

Referred from Planning Board: YES / NO
 If yes provide date of Planning Board meeting: _____

Project Name: Asahi Refining

Street Address: 875 Western Highway, Blauvelt, NY 10913

Tax Map Designation:

Section: 65.13 Block: 1 Lot(s): 2
Section: _____ Block: _____ Lot(s): _____

Directional Location:

On the East side of Western Highway, approximately 1065 feet North of the intersection of Western Highway & Piper Ct., in the Town of Orangetown in the hamlet/village of Blauvelt.

Acreage of Parcel <u>6.17</u>	Zoning District <u>LO</u>
School District <u>South Orangetown Central</u>	Postal District <u>Blauvelt 10913</u>
Ambulance District <u>South Orangetown Ambulance Corps</u>	Fire District <u>Department 1</u>
Water District <u>Suez Water</u>	Sewer District <u>RCSD #1</u>

Project Description: *(If additional space required, please attach a narrative summary.)*

Project includes the interior renovations to existing building offices & storage, security improvements and site modifications. Also included are partial cladding replacement, modified entrance & (4) exterior loading docks.

The undersigned agrees to an extension of the statutory time limit for scheduling a public hearing.

Date: 06/23/2022 Applicant's Signature: _____

APPLICATION REVIEW FORM

FILL IN WHERE APPLICABLE.

(IF THE FOLLOWING DOES NOT APPLY PLEASE MOVE ON TO THE NEXT PAGE)

If subdivision:

- 1) Is any variance from the subdivision regulations required? _____
- 2) Is any open space being offered? ____ If so, what amount? _____
- 3) Is this a standard or average density subdivision? _____

If site plan:

- 1) Existing square footage 268,765.2 Site
- 2) Total square footage 95,437.06 Building
- 3) Number of dwelling units None

If **special permit**, list special permit use and what the property will be used for.

Environmental Constraints:

Are there **slopes greater than 25%**? If yes, please indicate the amount and show the gross and net area No

Are there **streams** on the site? If yes, please provide the names. No

Are there **wetlands** on the site? If yes, please provide the names and type:

No

Project History:

Has this project ever been reviewed before? No

If so, provide a narrative, including the list case number, name, date, and the board(s) you appeared before, and the status of any previous approvals.

List tax map section, block & lot numbers for all other abutting properties in the same ownership as this project.

None



**OFFICE OF BUILDING, ZONING, PLANNING
ADMINISTRATION AND ENFORCEMENT**
TOWN OF ORANGETOWN
20 GREENBUSH ROAD
ORANGETOWN, N.Y. 10962

Jane Slavin, RA
Director

(845) 359-8410

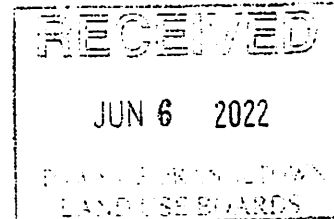
Fax: (845) 359-8526

Date: June 3, 2022

To: Cheryl Coopersmith, Chief Clerk
Planning Board

From: Jane Slavin, RA.,
Director O.B.Z.P.A.E.

Subject: **ASAHI SITE PLAN**
Pre-preliminary/preliminary/final Site Plan
875 Western Highway, Blauvelt, NY;
65.13-1-2; LO zoning district



Submission Reviewed:

Asahi Site Plan package last revised 5-16-2022 as prepared by DCAK-MSA.

- 1) Applicant is proposing to utilize the existing building for a NY based corporate office and for the storage of gold and silver.
- 2) ACABOR review and approval is required for the proposed exterior changes to the building and landscaping changes.
- 3) Applicant indicated at the PRC meeting that the proposed operation will not utilize the 115 spaces that are required by the zoning code. Applicant should consider land-banking parking spaces to reduce the amount of impervious coverage.
- 4) Applicant is proposing a new 8'-0" high fence which requires a 5'-4" setback from the property lines along the side yards and rear yard. A section of the fence along the north property line has a 0'-0" setback. A variance is required for that portion.
- 5) The SEAF appears to be in order.

JS-6-3-2022

June 23, 2022

Zoning Board of Appeals
Town of Orangetown Building Department
20 Greenbush Road
Orangeburg, New York 10962

Dear honorable members of the Town of Orangetown Zoning Board of Appeals,

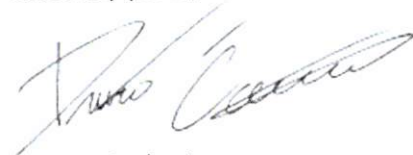
With this letter, DCAK- MSA Architecture and Engineering P.C. as architect and agent for Asahi Depository LLC, is submitting an appeal for an area variation from the Zoning Law of the Town of Orangetown, NY.

In accordance with Section 5.226, the applicant is asking for an area variance further described in the attached Description of Variance.

Attached with this letter are the supporting materials required by the Zoning Law.

We hope that you will find the variance justified and that you will find in favor of our client.

Sincerely yours,



Drazen Cackovic
Principal
DCAK- MSA Architecture & Engineering, P.C.

attachments: Description of Variance & Surrounding Property Views
Part I & Part II of the Board Application
Copy of Building Permit Denial Application, signed by the Director of the Department
Copy of comments from Jane Slavin, Director dated June 3, 2022
Copy of Deed
Written authorization from the owner to appear in front of the Board
NYS Short Environmental Assessment Form
Entity Disclosure Form
List of Names/Addresses of all property owners within 200 feet of perimeter of site
Site & Architectural Drawings (See TS-001 for Drawings list)
Application Fee (\$615.00) for Variance

DESCRIPTION OF VARIANCE

For

Asahi Refining
875 Western Highway, Blauvelt, NY

DCAK-MSA Architecture & Engineering, P.C., as an agent for Asahi Depository LLC, owner of the building located at 875 Western Highway, would like to appeal for a variation from the Zoning Law for the Town of Orangetown, NY for the following variance:

1. Area Variance from the requirements of Section 5.226 which states the following:

Area Requirement:

Fences and walls:

"...A fence over the six-foot height is permitted in the side and rear yards, provided that it is set back from the lot line a distance equal to 2/3 its height. Fence height shall be measured from average finished grade in the adjacent area as determined by the Building Inspector. Walls over six feet high shall conform to the height regulations of § 3.12. A building permit is required for all fences and walls, except fences six feet high or less for a residential lot for a single-family or two-family dwelling."

Variance Requested: Per the Section 5.226 setback from the lot line should be 2/3rd the height of the fence; hence setback for 8.0' high fence is 5.33'. On the North side yard of the property proposed setback for the 8.0' high fence is 0.0'. Variance is requested for this section of fence alone.

Explanation of variance requested:

The building at 875 Western Highway, Blauvelt, NY was purchased by the Owner Asahi Depository LLC to be used as an office & storage facility where rare metals will be stored on site. The need for heightened security on the site is crucial for the operation of the facility. A new 8.0' high fence is thus proposed along the side and rear yards of the property to ensure the controlled access into the facility. Per the Town of Orangetown requirements for setbacks on fence installation, a setback of 5.5' is provided on the South & East yards. However, in order to accommodate the turning radius required for the armored delivery trucks, a section of the fence on the North side yard measuring approximately 100.0' (around 7% of the total length of the fence) has to be installed at the property line with no setback provided. It is worth noting that on the north side, the property faces a landscaping business storage yard, which in this location stores piles of wood chips, logs, and other landscaping materials and the proximity of the fence will not pose a functional or aesthetic limitation on the adjoining property.

Principal Points:

In accordance with Section 14B-23 of the Town of Orangetown Code: Conditions for variances; we would like to address each condition and how this request for the area variance does not pose any significant disturbance to the adjacent properties and the Town requirements:

- A. *Generally, variances may be issued for new construction and substantial improvements to be erected*

on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, provided items in § 14B-22D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

This site is greater than ½ acre in area. Technical justification is provided above and in the attached drawings which demonstrate that for a safe turning and backing of the armored truck, an extended clearance is needed on the north end of this previously developed property.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
(1) The proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure; and

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

Not applicable. The site is not of any historic significance.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

(1) The criteria of Subsection A, D, E, and F of this section are met; and

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

The proposed fence does not pose any threat by flood damages nor create any additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

The proposed fence will not affect any changes in flood levels on site or adjacent properties.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

The proposed fence setback is the minimum necessary required to ensure the security & operation of the site and facility and in no way pose a flood hazard

F. Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

As expressed in the explanation above, the requirement of a continuous and secure fencing is of utmost importance in consideration of the metals stored on site. Attached drawings of armored truck turning radius demonstrate that additional clearance is required on the north end of the property for a safe ingress and egress into a newly created enclosed loading bay compliant with town requirements.

In the absence of variance, backing of armored truck will be considerably less safe thus creating a safety issue for people and the property.

The requested variance will not pose any risk to the flood heights, public safety, public expense,

create nuisance, cause fraud or cause any conflict with the intentions of any existing local laws & ordinances.

G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

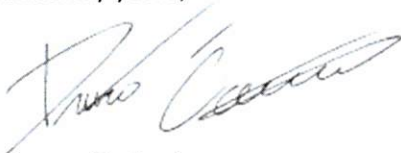
Not applicable

In conclusion, we would like to reiterate the fact that the requested variance for the setback of the said portion of the 8.0' high fence does not:

1. Granting of an area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property faces a landscaping business storage yard, which in this location stores piles of wood chips, logs, and other landscaping materials and the proximity of the fence will not pose a functional or aesthetic limitation on the adjoining property.
2. The benefit sought by the applicant cannot be achieved by other methods, feasible for the applicant to pursue. Any setback for the portion of the fence will make the site impractical for delivery purposes which affects the operations of the building. Furthermore, one outside loading dock was converted to an enclosed interior loading dock in compliance with town standards. This required an access ramp that shortened available space for truck turning and backing into the enclosed bay.
3. The requested area variance is not substantial. It is only for 7% of the fence length. 93% of the fence is proposed to be installed in compliance with town standards.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. In the area of the proposed variance, the property faces a landscaping business storage yard. The proximity of the fence will not pose a functional or environmental effect on the adjoining property.
5. The difficulty for which the remedy is sought through the area variance, is not self-created and is the only course of action to ensure the functionality, operational capability & security of the site & building. The location of the building on this site is pre-existing. The owner is putting in place all of the available remedies at its disposal such as:
 - a. A new turning area was created for a 75' long tractor trailer to be able to turn and back in the loading bay.
 - b. An outside loading dock was converted to an enclosed interior loading dock in compliance with town standards. This required an access ramp that shortens available space for truck turning and backing into the enclosed bay.

We hope that the board will find this request for the area variance justified and that you will find in favor of our client.

Sincerely yours,



Drazen Cackovic
Principal
DCAK- MSA Architecture & Engineering, P.C.

