

MINUTES  
ZONING BOARD OF APPEALS  
July 6, 2016

MEMBERS PRESENT: DAN SULLIVAN  
PATRICIA CASTELLI  
MICHAEL BOSCO  
THOMAS QUINN  
JOAN SALOMON  
LEONARD FEROLDI, ALTERNATE

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

PUBLISHED ITEMS

APPLICANTS  
NEW ITEMS:

DECISIONS

URBAN ELECTRIC POWER PERFORMANCE STANDARDS 401 North Middletown Road Pearl River, NY 68.08/ 1 / 1; LI/LO zone	POSTPONED	ZBA#16-56
SALOON ROOF EXPANSION 49 West Central Avenue Pearl River, N.Y. 68.16 / 1 / 9; CC zone	FLOOR AREA RATIO, BUILDING HEIGHT VARIANCES APPROVED	ZBA#16-57
155 CORPORATE DRIVE 40 & 155 Corporate Drive Orangeburg, N.Y. 73.19 / 1 / 1; & 73.15 /1/18; LIO zone	OUTDOOR LOADING BERTH VARIANCE APPROVED	ZBA#16-58
MIELE PERFORMANCE STANDARDS 375 Western Highway Tappan, NY 74.18 / 3 / 32; LO zone	CONFORMANCE WITH SECTION 4.1	ZBA#16-59
AITKEN 57 Walnut Street Blauvelt, NY 70.15 / 1 / 34; R-15 zone	FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#16-60
KIELY 1 Yorktown Court Tappan, NY 77.11 / 1 / 62; R-15 zone	BUILDING HEIGHT VARIANCE APPROVED	ZBA#16-61

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TOWN OF ORANGETOWN

ORANGETOWN COMMERCE CENTER SIGN 5 Greenbush Road Orangeburg , NY 74.15 / 1 /2; LI zone	SIGN SIZE, ILLUMINATION AND LOCATION VARIANCES APPROVED	ZBA#16-62
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ORANGETOWN COMMERCE CENTER HEIGHT VARIANCE 5 Greenbush Road Orangeburg , NY 74.15 / 1 /2; LI zone	BUILDING HEIGHT VARIANCE APPROVED AS MODIFIED	ZBA#16-63
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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting 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 applications: Misiorski Site Plan, 897 Route 9W, Upper Grandview, NY 71.17/1/13; R-22 zoning district; BCH Realty Site Plan, 20 Mountainview Avenue, Orangeburg, NY 74.07/1/27; LI & CC zoning district; Hawks View Estates Subdivision Plan -4 lots; 290 & 298 South Boulevard, Upper Grandview, NY 71.05 / 1 / 22 & 23; R-22 zoning district; Coffey Site Plan, 363 South Midletown Road, Pearl River, NY 63.20 / 1 / 1; CO zoning district; 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 10:45 P.M.

Dated: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By *Deborah Arbolino*

Deborah Arbolino, Administrative Aide

DISTRIBUTION:  
APPLICANT  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
TOWN BOARD MEMBERS  
BUILDING INSPECTOR (Individual Decisions)  
Rockland County Planning

TOWN CLERKS OFFICE  
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TOWN OF ORANGETOWN



Donald Brenner, Attorney, testified that the project has been before the Boards for several years; that they have been rebuilding the restaurant since super storm sandy; that the second floor extension and elevator were already approved that they are back now for the restaurant roof garden; that some of the notes from the agencies can be addressed for parking; that they are getting parking from the MTA and from the Dexter property; that the roof top dining will add 227 seats to the restaurant for a total of 627 seats; and that the MTA will provide 40 additional parking spaces because of their lot is on the applicant's property.

Bridgen Killen, owner, testified that the owner of the property that they have the agreement to use 300 parking spaces in the Dexter lot, does not want the agreement to go public; that they will have the capacity for 627 seats when the roof top dining is complete; that they are adding a second kitchen on the second floor that was already approved; that the outdoor roof will be used from May until October; and that the second floor is not finished yet.

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. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Bosco and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has several private parking areas that they are able to use for their patrons; and there were no members of the public expressing concerns regarding the expansion.
2. The requested floor area ratio and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has several private parking areas that they are able to use for their patrons; and there were no members of the public expressing concerns regarding the expansion.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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TOWN OF CLINTON

4. The requested floor area ratio and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant has several private parking areas that they are able to use for their patrons; and there were no members of the public expressing concerns regarding the expansion.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio and building height variances are APPROVED and the Board also resolved to override modifications # 1 and #2 of the Rockland County Department of Planning letter dated June 20, 2016; 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.

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TOWN OF ORANGETOWN

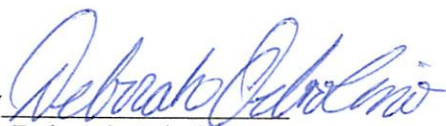
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown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

The foregoing resolution to approve the application for the requested floor area ratio and building height variances and the Board also resolved to override modifications # 1 and #2 of the Rockland County Department of Planning letter dated June 20, 2016; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-N.A.

TOWN CLERK  
HIGHWAY DEPARTMENT  
ASSESSOR  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
2016 JUL 25 PM 12 28  
TOWN OF ORANGETOWN



DECISION

**LOADING BERTH VARIANCE APPROVED**

To: Douglas Bartels, P.E. (155 Corporate Drive)  
Russo Development  
570 Commerce Boulevard  
Carlstadt , New Jersey 07072

ZBA #16-58  
Date: July 6, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-58: Application of 155 Corporate Drive for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District refers to LO District, Column 7, #2 (Loading Berths shall be within completely enclosed buildings: one (1) interior loading berth required for addition: one (1) exterior loading berth proposed) for a 12,000 sq. ft. addition to the building. The premises are located at 155 Corporate Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as 73.15/ 1 / 18 & 73.19 / 1 / 1; in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2016 at which time the Board made the determination hereinafter set forth.

Atimo DelVecchio, Attorney, and Douglas Bartels, P.E., appeared and testified.

The following documents were presented:

1. Architectural plan dated 03/04/2016 by Arcari Iovino labeled 155 Corporate Drive Building Addition (2 pages).
2. Plans labeled "155 Corporate Drive Building Addition" signed and sealed by Douglas Bartels (10 pages).
3. Planning Board Decision #16-25 dated May 11, 2016, PB# 14-04 dated January 15, 2014, PB #11-52 dated November 11, 2011.
4. Zoning Board decision # 13-34 and # 13-35 dated June 13, 2013.
5. ACABOR Decision #13-23 dated May 16, 2013.
6. Memorandum dated May 11, 2016 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement.
7. A letter dated June 20, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on May 11, 2016 rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Bosco, aye; and Ms. Salomon, aye.

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PLANNING BOARD

Atimo DelVecchio, Attorney, testified that this is an existing data center; that they are proposing a 12,000 sq. ft. building addition to the south part of the building; that they need to add a loading berth for the additional space and they are not enclosing it and that is what they need the variance for; that they will also be re-stripping the parking and adding some improvements to the security.

Douglas Bartels, P.E., testified that they already have several exterior loading berths on the other side of the building; that they are requesting to continue using exterior loading berths; that most of the buildings on Corporate drive have exterior loading docks and the interior dock would take up more space.

Public Comment:

Phyllis Lieberman, 26 Corrigan Way, Old Tappan, N.J., stated that she lives behind the building and doesn't hear the trucks and that she is speaking in support of the applicant.

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. Sullivan 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 exterior loading berth variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other buildings on Corporate Drive have exterior loading berths and this property is exceptionally well cared for.
2. The requested exterior loading berth variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other buildings on Corporate Drive have exterior loading berths and this property is exceptionally well cared for.
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 exterior loading berth variance, although somewhat substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Other buildings on Corporate Drive have exterior loading berths and this property is exceptionally well cared for.
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.

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PLANNING OFFICE



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested exterior loading berth variance is APPROVED and resolved to override modification # 1 of the Rockland County Department of Planning letter dated June 20, 2016; 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.

TOWN OF ORANGETOWN

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TOWN OF ORANGETOWN


155 Corporate Drive  
ZBA#16-58  
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The foregoing resolution to approve the application for the requested exterior loading berth variance and resolved to override modification # 1 of the Rockland County Department of Planning letter dated June 20, 2016; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-N.A.

TOWN CLERK  
HIGHWAY DEPARTMENT  
ASSESSOR  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
2016 JUL 25 PM 12 29  
TOWN OF ORANGETOWN

DECISION

**PERFORMANCE STANDARDS REVIEW APPROVED**

To: Donald Tracy  
317 Little Tor Road South  
New City, New York 10956

ZBA #16-59  
Date: July 6, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-59: Application of Miele requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.1 Performance Standards review for the welding and repairing of garbage dumpsters. The premises are located at 375-377 Western Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 32 N; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2016 at which time the Board made the determination hereinafter set forth.

Donald Tracy, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Joseph Miele Commercial Subdivision Plat & Site Plan" signed and sealed by Brian A. Brooker, P.E., latest revision date of 01/16/2015 (1 page).
2. Performance Standards Resume of Operation and Equipment form.
3. Fire Prevention Supplement dated 06/07/2016.
4. ZBA Decision # 14-18 dated March 19, 2014.
5. A letter dated June 21, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A memorandum dated June 28, 2016 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
7. A letter dated June 14, 2016 from the Department of Environmental Management and Engineering, Town of Orangetown, signed by Joseph J. Moran, P.E., Commissioner; with an attachment dated May 26, 2016 from Bruce Peters, P.E., Engineer III, Town of Orangetown; and an additional memorandum dated May 27, 2016 signed by Ken Skibinski, Chief Plant Operator, DEME.
8. A letter dated June 30, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application entails the ZBA engaging in a review to determine compliance with technical requirements, this application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28). The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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Donald Tracy, Attorney, testified that he is representing Mr. Miele, who cannot be present because he suffered a stroke that morning and is in intensive care; that there is a 75,000 sq. ft. building and a single welder does repairs to dumpsters for the past 12 years; that the letter from Rockland County Highway Department does not make sense because there is no construction taking place; that they will comply with the comments from Mike Bettmann; that the commercial subdivision prompted the performance standards review; that the area that the welding takes place is at least 200' from the railroad tracks; and the trains carry more hazardous materials than a man welding and repairing a dumpster; and the property is zoned for this use and has been used for this type of use for the last 20 years; and he will fill out the fire prevention form.

The Board reviewed the Performance Standards and Fire Supplement forms.

Public Comment:

Norman Cooper, 360 Western Highway, Tappan, NY, testified that he would like to correct errors from the last meeting; that the address was wrong and the clerk misspelled his wife's first name and his name was omitted altogether; that he is concerned about noise from the dumpsters being transported to parking lots and empty dumpsters make a racket; that they smells of garbage in dumpsters is a concern and sparks flying from welding and igniting with the above ground gas tanks on the site; that he would like to see things kept nice for his three tenants and maintain his property values.

Vickie Cooper, owner of 360 Western Highway, testified that she agreed with everything her husband said and voiced concerns about noise, fires and problems for her property.

Heather Hurley, 202 Hobart Street, Pearl River, testified that she is concerned about someone welding outside of the building, 90 feet from the railroad with diesel tanks and CSX crossing; that sparks could cause a fire at the Superior Crane above ground gas tanks.

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. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Quinn 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:

Based upon the information contained in the applicant's Resume of Operations and Equipment and the Fire Prevention Supplement; the report dated June 14, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the memorandum dated May 16, 2016 from Bruce Peters, P.E., Engineer III, D.E.M.E.; the memorandum dated May 27, 2016 from Ken Skibinski, Chief Plant Operator, D.E.M.E.; the report dated June 28, 2016 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth

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TOWN OF ORANGETOWN  
CLEANING

Miele Performance Standards

ZBA#16-59

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in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents submitted, the Board: RESOLVED, that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated June 28, 2016; and (2) that the Applicant adhere to all of the requirements set forth by the report dated June 14, 2016 from Joseph J. Moran, P.E., Commissioner, D.E.M.E.; and (3) the attachment dated May 26, 2016 from Bruce, Peters, P.E., Engineer III, D.E.M.E.; and (4) the attachment dated May 27, 2016 from Ken Skibinski, Chief Plant Operator, D.E.M.E.; and (5) The Fire Prevention Supplement completed and signed by the applicant's Attorney at the Public Hearing, shall be submitted to, and reviewed by, the Orangetown Chief Fire Inspector, and the applicant shall comply with any additional requirements of the Chief Fire Inspector; 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.


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TOWN OF ORANGETOWN  
CLERK

The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: (1) that the Applicant adhere to all of the requirements set forth in the report by Chief Fire Inspector Bettmann, B.F.P., dated June 28, 2016; and (2) that the Applicant adhere to all of the requirements set forth by the report dated June 14, 2016 from Joseph J. Moran, P.E., Commissioner, D.E.M.E.; and (3) the attachment dated May 26, 2016 from Bruce Peters, P.E., Engineer III, D.E.M.E.; and (4) the attachment dated May 27, 2016 from Ken Skibinski, Chief Plant Operator, D.E.M.E.; and (5) The Fire Prevention Supplement completed and signed by the applicant's Attorney at the Public Hearing, shall be submitted to, and reviewed by, the Orangetown Chief Fire Inspector, and the applicant shall comply with any additional requirements of the Chief Fire Inspector; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Salomon, aye; Mr. Quinn, aye ; Mr. Sullivan, aye; and Ms. Castelli, 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: March 16, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-G.M.

TOWN CLERK  
HIGHWAY DEPARTMENT  
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MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
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TOWN OF ORANGETOWN



DECISION

**FRONT YARD, SIDE YARD AND BUILDING HEIGHT VARIANCES  
APPROVED**

To: John Aitken and Mary Foisy  
57 Walnut Street  
Blauvelt, New York 10913

ZBA #16-60  
Date: July 6, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-60: Application of John Aitken and Mary Foisy for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 8 (Front Yard: 30' required, 13.5' proposed), 9 (Side Yard: 20' required, 6.4' proposed) and 12 (Building Height: 6.4' permitted, 13.5' proposed) for a detached garage at an existing single-family residence. The premises are located at 57 Walnut Street, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 34; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2016 at which time the Board made the determination hereinafter set forth.

John Aitken, Mary Foisy and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 12/18/2015 with the last revision date of 5/3/2016 signed and sealed by Jane Slavin, Architect.
2. A letter dated June 22, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated June 30, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..
4. Survey dated September 21, 1992 by Norman Peachey, L.S.
5. Certificate of occupancy's dated November 5, 1964 and July 23, 2001..
6. Tax map.
7. Google maps aerial view of the lot.
8. Two pictures of the lot

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Jane Slavin testified that the existing house sits sideways on the property; that the previous owner put up a 12' x 14' shed and was told that the shed was located in the rear yard; that they would like to remove the existing shed a build a garage in its location and they were told that they need a variance to put the shed in the front yard; that this is a flag lot and it is oddly shaped; that the existing slope of the property prohibits the garage from being placed on the east side of the property and the driveway presently goes to the

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TOWN CLERK'S OFFICE

location of the proposed garage; and the previous owner had permission to build a two-car garage and actually has a certificate of occupancy for a single-family residence with a two-car garage; that the garage was never built; and the original subdivision map does show easements for drainage and parking.

John Aitken testified that they moved into the house in 2010 and since then they need more space to store items; that the existing shed is not large enough for all of their stuff.

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. Sullivan 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 front yard, side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is an oddly shaped flag lot which has a big drop off in grade elevation on the east side, and the proposed location is the most logical place for the garage.
2. The requested front yard, side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is an oddly shaped flag lot which has a big drop off in grade elevation on the east side, and the proposed location is the most logical place for the garage.
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 front yard, side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The property is an oddly shaped flag lot which has a big drop off in grade elevation on the east side, and the proposed location is the most logical place for the garage.
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.

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TOWN OF ORANGETOWN  
TOWN CLERK

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested front yard, side yard and building height variances are APPROVED and Resolved to override #4 of the Rockland County Department of Planning letter dated June 22, 2016 because resolving private property boundaries are not within the jurisdiction of the Board ; 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.


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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested front yard, side yard and building height variances and Resolved to override #4 of the Rockland County Department of Planning letter dated June 22, 2016 because resolving private property boundary issues are not within the jurisdiction of the Board; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-M.M.

TOWN CLERK  
HIGHWAY DEPARTMENT  
ASSESSOR  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
2016 JUL 25 PM 12 29  
TOWN OF ORANGETOWN

DECISION

**BUILDING HEIGHT VARIANCE APPROVED**

To: Dennis and Maria Kiely  
1 Yorktown Court  
Tappan, New York 10983

ZBA #16-61  
Date: July 6, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-61: Application of Dennis and Maria Kiely for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, (Average Density: RG District applies), Group Q, Section 3.12, Column 12 (Building Height: 13' 7" permitted, 18' 10" proposed) for an addition to an existing single-family residence. The premises are located at 1 Yorktown Court, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 62; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2016 at which time the Board made the determination hereinafter set forth.

Dennis and Maria Kiely and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans April 6, 2016 with the latest revision date of May 25, 2016 signed and sealed by Jane Slavin, Architect.
2. Plot Plan based on survey by Robert Sorace dated June 9, 2003 by Jane Slavin not dated.
3. A letter dated June 23, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated June 27, 2016 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
5. A letter dated June 22, 2016 from the County of Rockland Sewer District No.1 signed by Joseph LaFiandra, Engineer II.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan 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. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

Jane Slavin testified that they are proposing to expand the main floor and that the 100 year flood plain is at 44.9' and the first floor is at 45.4' that the first floor of the house is not habitable but still counts for floor area; that the proposed addition will be at 49' and they are proposing to add a bedroom, bathroom and expand the kitchen to allow a parent to move in with them; that the height matches the existing height; that the lot is extremely odd shaped and going up would not accommodate an elderly person; and that the Kiely's have owned the house for fifteen years.

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TOWN CLERK

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. Sullivan 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 building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition will be the same height as the existing house.
2. The applicant must obtain a permit from the Rockland County Drainage Agency.
3. The floodplain shall be clearly delineated on the site plan. The Floodplain Administrator for the Town of Orangetown shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency, since the addition is located completely within the 100 year floodplain of the Sparkill Creek.
4. A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control.
5. The requested building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
6. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
7. The requested building height variance is not substantial.
8. 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.

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TOWN CLERK'S OFFICE



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested building height variance is APPROVED with the following conditions: (1) The applicant must obtain a permit from the Rockland County Drainage Agency; (2) The floodplain shall be clearly delineated on the site plan; (3) The Floodplain Administrator for the Town of Orangetown shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency, since the addition is located completely within the 100 year floodplain of the Sparkill Creek; (4) A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control; 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.


TOWN CLERKS OFFICE  
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The foregoing resolution to approve the application for the requested building height variance with the following conditions: (1) The applicant must obtain a permit from the Rockland County Drainage Agency; (2) The floodplain shall be clearly delineated on the site plan; (3) The Floodplain Administrator for the Town of Orangetown shall certify that the proposed construction is in compliance with the floodplain regulations of the Town and the Federal Emergency Management Agency, since the addition is located completely within the 100 year floodplain of the Sparkill Creek; (4) A review must be done by the Rockland County Department of Health to ensure compliance with the Rockland County Sanitary Code, Article XIX, Mosquito Control; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-G.M.

TOWN CLERK  
HIGHWAY DEPARTMENT  
ASSESSOR  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE, ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
2016 JUL 25 PM 12 29  
TOWN OF ORANGETOWN

DECISION

**SIGN SIZE, ILLUMINATION AND LOCATION VARIANCES APPROVED**

To: Geraldine Tortorella (Orangetown Commerce Center)  
Hocherman, Tortorella & Wekstein LLP  
One North Broadway Suite 701  
White Plains, New York 10601

ZBA #16-62  
Date: July 6, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-62: Application of Orangetown Commerce Center for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.11, Column 5 #7 (Total Sign Area shall not exceed 60 sq. ft.: illuminated area of sign : 30 sq. ft. permitted: 240 sq. ft. proposed) and #8 c ( sign setback: 30' required, 6'10" and 3' proposed) for two (2) internally lit freestanding signs. The premises are located at 5 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 2; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2016 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Attorney, Nathaniel Burns, Landscape Architect, Robert Kreiger, Architect, Justin Lim, P.E., John Friedland, Commercial Real Estate Broker, and Al Rossi, BF Orangetown LLC, appeared and testified.

The following documents were presented:

1. Survey of Property for BF Orangetown LLC dated 12/18/2014 with the latest revision date of 12/16.2015 signed and sealed by Jay A. Greenwell, PLS.
2. Allied signage sign plans dated 03/01/2016 with the latest revision dated of 05/25/2016 drawn by P. Pesapane.
3. Plans labeled "Orangetown Commerce Center" signed and sealed by Michael Szura, Landscape Architect with the latest revision date od 05/23/2016 (6 pages).
4. Orangetown Commerce Center Layout Plan with the latest revision date of 05/23/2016 signed and sealed by Leonard Jackson, P.E. ( 1 page).
5. Architectural plans labeled "Orangetown Commerce Center" by Dahn & Krieger signed and sealed by William Dahn dated 06/25/2015 ( 4 pages).
6. A memorandum dated May 11, 2016 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
7. A letter dated June 23, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning (2 pages).
8. A letter dated April 6, 2016 from the Rockland County Drainage Agency signed by Vincent Altiei, Executive Director (2 pages with attachment).

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

TOWN CLERKS OFFICE  
2016 JUL 25 PM 12 29  
TOWN OF ORANGETOWN

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on May 11, 2016 rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a “Negative Declarations” of “Neg Dec.”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

Geraldine Tortorella, Attorney, testified that the site is located behind the new Stop & Shop on Greenbush Road and Highview and the railroad tracks; that the property is where the old Orangeburg Pipe was manufactured and is a Brownfield clean-up site; that they are proposing to construct a 68,443 sq. ft. warehouse use building; that the use is permitted in the zone; that the southern end of the building would have smaller units and there would be loading dock; that they are proposing signs at the north of the property which would be two sided parallel to Greenbush Road with the tenants name and unit number; that this monument sign will be illuminated as will the monument sign on the one-way circle behind the stop & Shop; that they are not proposing any signs on the building, except for the unit number; that by code they would be permitted 840 sq. ft. of signage on the building; that they do not want to invite retail use in the building and that is why they are not using signage on the building, other than unit numbers; that they have received a preliminary approval and a neg dec from the Planning Board; that they are asking for the setback variances because they are required to add stormwater detention basins along Greenbush Road and they are locating the signs at three foot set back on the north side because of the basin; and 6’10” at the south entrance; and that the signs are attractive and similar to the Orangeburg Commons signs.

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. Sullivan made a motion to close the Public Hearing which motion was seconded by Ms. Castelli and carried unanimously.

TOWN CLERK'S OFFICE  
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TOWN OF ORANGETOWN

**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 sign size, illumination and location variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant is foregoing the permitted 840 sq. ft. of signage that could be installed on the building by right in this zoning district, which would be much more noticeable than the two proposed monuments signs and the unit numbers on the building.
2. The requested sign size, illumination and location variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant is foregoing the permitted 840 sq. ft. of signage that could be installed on the building by right in this zoning district, which would be much more noticeable than the two proposed monuments signs and the unit numbers on the building.
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 sign size, illumination and location variances, although somewhat substantial, afford benefits to the applicants that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant is foregoing the permitted 840 sq. ft. of signage that could be installed on the building by right in this zoning district, which would be much more noticeable than the two proposed monuments signs and the unit numbers on the building.
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.

TOWN PLANNING OFFICE  
2016 JUL 25 PM 12 29  
ORANGETOWN, FLORIDA

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested sign size, illumination and location variances are APPROVED and Resolved to override the Rockland County Department of Planning letter dated June 23, 2016; 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.

TOWN OF ORANGETOWN  
2016 JUL 25 PM 12 29  
TOWN CLERKS OFFICE




The foregoing resolution to approve the application for the requested sign size, illumination and location variances and to override the Rockland County Department of Planning letter dated June 23, 2016; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-N.A.

TOWN CLERK  
HIGHWAY DEPARTMENT  
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DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

TOWN CLERKS OFFICE  
2016 JUL 25 PM 12 29  
TOWN OF ORANGETOWN

DECISION

**BUILDING HEIGHT VARIANCE APPROVED**

To: Geraldine Tortorella (Orangetown Commerce Center)  
Hocherman, Tortorella &Wekstein LLP  
One North Broadway Suite 701  
White Plains, New York 10601

ZBA #16-63  
Date: July 6, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-63: Application of Orangetown Commerce Center for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LI District, Section 3.12, Column 12 (Building Height : 25' permitted, 30' proposed to roof, 32 ½ ' proposed to parafit) for a new commerce center. The premises are located at 5 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.15, Block 1, Lot 2; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 6, 2016 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Attorney, Nathaniel Burns, Landscape Architect, Robert Kreiger, Architect, Justin Lim, P.E., John Friedland, Real Estate Broker, and Al Rossi, BF Orangetown LLC, appeared and testified.

The following documents were presented:

1. Survey of Property for BF Orangetown LLC dated 12/18/2014 with the latest revision date of 12/16.2015 signed and sealed by Jay A. Greenwell, PLS.
2. Allied signage sign plans dated 03/01/2016 with the latest revision dated of 05/25/2016 drawn by P. Pesapane.
3. Plans labeled "Orangetown Commerce Center" signed and sealed by Michael Szura, Landscape Architect with the latest revision date of 05/23/2016 (6 pages).
4. Orangetown Commerce Center Layout Plan with the latest revision date of 05/23/2016 signed and sealed by Leonard Jackson, P.E. ( 1 page).
5. Architectural plans labeled "Orangetown Commerce Center" by Dahn & Krieger signed and sealed by William Dahn dated 06/25/2015 ( 4 pages).
6. A memorandum dated May 11, 2016 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
7. A letter dated June 23, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning (2 pages).
8. A letter dated April 6, 2016 from the Rockland County Drainage Agency signed by Vincent Altiei, Executive Director (2 pages with attachment).

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

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On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on May 11, 2016 rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

Geraldine Tortorella, Attorney, testified that the site is located behind the new Stop & Shop on Greenbush Road and Highview and the railroad tracks; that the property is where the old Orangeburg Pipe was manufactured and is a Brownfield clean-up site; that they are proposing to construct a 68,443 sq. ft. warehouse use building; that the use is permitted in the zone; that they have received a preliminary approval and a neg dec from the Planning Board; that they had a traffic study done by Maser Consulting; that the building height variance is needed in two locations because of the set back of the building from the road and because the decorative parafits are 32' 6" high; that the building is not visible to any residences in the area; that it sits behind the Stop & Shop and Lowes and it will not have an adverse effect on the area.

Robert Kreiger, Architect, testified that the building is triangular shaped to fit the lot which is long and narrow; that the smaller units sort of step out and it is designed to be a consumer style warehouse and because it is 750 feet long, three different materials are being used to break it up and bring relief to the length; that it will have split face with concrete, masonry two color decorative block and a grey stone veneer; that the parafit will be 2 ½' higher than the roof and the canopy will be grey metal; that the western side will have roll up doors for loading along the railway the clock will be painted and the HVAC will be located on the roof at the rear of the building and it will be screened.

John Friedland, Commercial Real Estate Broker, testified that industrial properties are utilizing cubic volume with smaller footprints; that the larger units with loading doors will probably be occupied by companies that need bulk consumer product storage such as Amazon or Fed Ex; that the height is needed for compressors and piping and 90% of these type of buildings are built to 32 or 42 foot heights; and that the smaller commercial units need 20' clearance for bulk user efficient design.

Nathaniel Burns, Landscape Architect, testified that they are planning to keep many of the existing trees along the railroad side of the property; that they are fitting parking in the rear and some of the spaces will be banked; that they are also maintaining large shade trees and adding low evergreen screening along Highview Avenue; that they are adding 150 ten foot evergreens for an immediate screen along the lower section of Western Highway; that there will more screening and improvement to the entire area.

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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. Sullivan 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 building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are many taller buildings in the immediate area, along Highview Avenue on the north side are buildings from Camp Shanks and have existed for many years without complaints or problems about their height.
2. The requested building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There are many taller buildings in the immediate area, along Highview Avenue on the north side are buildings from Camp Shanks and have existed for many years without complaints or problems about their height.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. Testimony from the Commercial Real Estate Broker stated that this type of cubic storage building must be a minimum of 30' in height to allow efficient use of the space.
4. The requested building height variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. There are many taller buildings in the immediate area, along Highview Avenue on the north side are buildings from Camp Shanks and have existed for many years without complaints or problems about their height.
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.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested building height variance is APPROVED and Resolved to override the Rockland County Department of Planning letter dated June 23, 2016; 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.

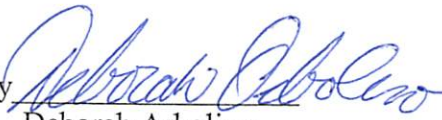
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The foregoing resolution to approve the application for the requested building height variance and Resolved to override the Rockland County Department of Planning letter dated June 23, 2016; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, 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: July 6, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-N.A.

TOWN CLERK  
HIGHWAY DEPARTMENT  
ASSESSOR  
DEPT. of ENVIRONMENTAL  
MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

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