

MINUTES
ZONING BOARD OF APPEALS
January 4, 2017

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

ABSENT: DAN SULLIVAN

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

DECISIONS

CONTINUED ITEMS:

LURO MED (SUITE 200) APPROVED ZBA#16-106
PERFORMANCE STANDARDS
560 Route 303
Orangeburg, NY
73.19 / 1 / 2; LIO zone

LURO MED (SUITE 205)
PERFORMANCE STANDARDS
560 Route 303
Orangeburg, NY
73.19 / 1 / 2; LIO zone

NEW ITEMS:

BROWNELL-ROZYPAL 4 Cara Drive Nanuet, NY 64.18 / 1 / 12; R-15 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#17-01
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HUSSEY	FRONT YARD, SIDE YARD	ZBA#17-02
227 Manor Blvd	AND TOTAL SIDE YARD	
Pearl River, NY	VARIANCES APPROVED	
69.09/ 1 / 37; R-15 zone		

SOUTH CORNER PLAZA 2 Route 340 Orangeburg, NY 74.11 / 2 / 47; CC zone	BUILDING HEIGHT VARIANCE APPROVED	ZBA#17-03 CLERKS OFFICE
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FOLEY
520 Orangeburg Road
Pearl River, NY
69.18 / 3 / 2; R-15 zone

SIDE YARD AND
TOTAL SIDE YARD
VARIANCES APROVED

ZBA#17-04

O'ROURKE
61 E. Townline Road
Nanuet, NY
64.18 / 2 / 1; R-40 zone

CONTINUED UNTIL
FEBRUARY 1, 2017

ZBA#17-05

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: Skae Training Site Plan- Shed and Antenna Plans, 339 Blaisdell Road, Orangeburg, NY; 76.08 / 1 / 3 & 4; LIO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

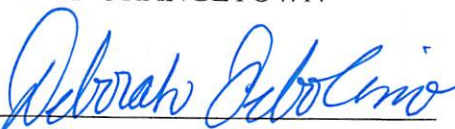
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:00 P.M.

Dated: January 4, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 

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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DECISION

CONFORMANCE TO PERFORMANCE STANDARDS APPROVED

To: Nancy Larsen (Luro Med Suite 200 & 205)
560 Route 303
Orangeburg, New York 10962

ZBA #16-106 & 16-107
Date: December 7, 2016
January 4, 2017
Permit # 45822 & #45816

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 16-106 and ZBA# 16-107: Application of Luro Med (Suite 200) 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 of a research, experiment and testing laboratory. The premises are located at 560 Route 303, (Suite 200 and Suite 205) Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 1; in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at meetings held on the following Wednesdays, December 7, 2016 and January 4, 2017 at which time the Board made the determination hereinafter set forth.

At the December 7, 2016 hearing Nancy Larsen appeared and testified.

The following documents were presented:

1. Final Site Plan for U & A Construction Corp. dated May 27, 199 with the latest revision date of 8/9/01 signed and sealed by Jay A. Greenwell L.S., and Andrew M. Connors, P.E..
2. A drawing made for 560 Route 303 2nd floor showing suites 205 and 200.
3. Use Subject to Performance Standards Resume of Operations and Equipment dated June 26, 2016 .
4. Brochures for Hylasome EG10 and Biopolymers (4 pages).
5. Process Details(3pages).
6. Safety Data Sheets (52 pages).
7. Fire Prevention Supplement.
8. A memorandum dated December 7, 2016 from the Town of Orangetown Bureau of Fire Prevention from Michael B. Bettmann, Chief Fire Inspector.
9. A letter dated December 1, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
10. A letter dated November 8, 2016 from the Rockland County Health Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

At the December 7, 2016 hearing on advice of Robert Magrino, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA Environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Mr. Quinn, aye; Mr. Feroldi , aye; Mr. Sullivan, aye; and Ms. Salomone. Mr. Bosco was absent.

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Nancy Larsen testified that they use natural polymers to make safe complexes that they ship to a distributor in New Jersey; that they are always working to make a better project; that the ratios are for the personal care industry, such things as medicine, food and supplements; that the waste is water and salt; that they do generate some hazardous waste that is captured in gallon glass containers and taken away by a licensed contractor; that there are no emissions because everything is low volatility and mixed in the hood; and that they are not planning on expanding the building; and that they would like a continuance until the January 4, 2017 meeting.

Public Comment:

Heather Hurley, 202 Hobart Street, Pearl River, testified that she had a few questions and concerns; that she would like to know if hazardous waste is generated at the site and if yes how much; that she would like to know if the company had a harmful waste manifest with the DEC; and if there are emissions and how they would be captured; and also if they will be submitting a long environmental assessment form.

The Board asked the Attorney if a long form EAF would be necessary and they were told no that it is not necessary for these applications.

At the January 4, 2017 hearing Nancy Larsen and Thomas O'Connell, Attorney, appeared and testified.

The following documents were presented:

1. A letter dated December 7, 2016 from Joseph J. Moran, P.E., Department of Environmental Management and Engineering, Town of Orangetown. (came through by e-mail after clerk left for the day)

Nancy Larsen testified that they requested a continuance at the last hearing because the Board required the letter from Joseph Moran in order to continue the review; that the company develops and produces the ingredients that are used in skin care products and they sell these ingredients to companies such as L'Oreal and P & G; that the fluids that are used are non-explosive flammable fluids and they are used under the fume hood; that the fume hood is in a separate room and is tested annually; that there are no odors; that the modified gel is washed with potable water and they need the two spaces to do the same process with a better layout; that they store the volatile chemicals in the fume hood; that the polymers are from the body and used in skin care.

The Board reviewed the Performance Standards and Fire Supplement forms.

Public Comment:

No public comment.

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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.

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all of 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 December 7, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated December 7, 2016 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated December 1, 2016 from Arlene Miller, Rockland County Department of Planning; 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 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) the report dated December 7, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (2) the report dated December 7, 2016 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated December 1, 2016 by Arlene Miller, Rockland County Department of Planning; shall be complied with; **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.

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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 CLERK'S OFFICE

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The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: (1) the report dated December 7, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (2) the report dated December 7, 2016 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and (5) the report dated December 1, 2016, from Arlene Miller, Rockland County Department of Planning; shall be complied with; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Feroldi, aye; Mr. Salomon, aye; Mr. Quinn, aye ; Mr. Bosco, aye; and Ms. Castelli, aye. Mr. Sullivan was absent on January 4, 2017.

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: January 4, 2017

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-R.A.O.

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

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, FRONT YARD, SIDE YARD AND BUILDING HEIGHT
VARIANCES APPROVED**

To: Michael Brownell/ Dona Rozsypal
23 Harding Street
Blauvelt, New York 10913

ZBA #17-01
Date: January 4, 2017
Permit # 45881

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-01: Application of Michael Brownell and Dona Rozsypal for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .244 proposed), 8 (Front Yard: 30' required, 20.86' proposed), 9 (Side Yard: 20' required, 19.7' proposed) and 12 (Building Height; 19.7' permitted, 26' proposed) for an addition and alteration to an existing single-family residence. The premises are located at 4 Cara Drive, Nanuet, New York and are identified on the Orangetown Tax Map as Section 64.18, Block 1, Lot 12; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 4, 2017 at which time the Board made the determination hereinafter set forth.

Dona Rozsypal and Paul Rozsypal appeared and testified.

The following documents were presented:

1. Survey for Michael Brownell and Dona Rozypal dated July 3, 2016 signed and sealed by William E. James, L.S..
2. Architectural plans with the latest revision date of September 29, 2016 by Robert Hoene, Registered Architect.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

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

Paul Rozsypal testified that the extension and alteration was designed to fit into the existing neighborhood and matches several of the other houses that have expanded; the side and total side yard variances are for existing conditions and the height is increased along with the floor area ratio; that he would like to submit pictures of the two other house in the area that have done similar expansions; and that they will have the bulk table corrected.

Dona Rozsypal testified that she and her husband purchased the property in June as an investment property.

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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 floor area ratio, 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. Similar additions have been constructed in the area.
2. The requested floor area ratio, 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. Similar additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, 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. Similar additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE

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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, front yard, side yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.
- (v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.

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The foregoing resolution to approve the application for the requested floor area ratio, front yard, side yard and building height variances 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; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: January 4, 2017

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-R.A.O.

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

TOWN CLERKS OFFICE
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DECISION

FRONT YARD, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Michael and Marie Hussey
227 Manor Boulevard
Pearl River, New York 10965

ZBA #17-02
Date: January 4, 2017
Permit # 45043

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 17-02: Application of Michael and Marie Hussey 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, 29.3' and 26.8' proposed), 9 (Side Yard: 20' required, 11.3' proposed) and 10 (Total Side Yard: 50' required, 25.6' proposed) for an addition to an existing single-family residence. The premises are located at 227 Manor Boulevard, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 1, Lot 37; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 4, 2017 at which time the Board made the determination hereinafter set forth.

Michael and Marie Hussey and Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans with site plan dated of January 7, 2016 by Kier B. Levesque, Registered Architect.
2. A letter dated December 22, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated December 5, 2016 from the County of Rockland Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated November 29, 2016 from the Rockland County Health department signed by Scott McKane, P.E., Senior Public Health Engineer.
5. A letter dated December 31, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

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

TOWN CLERKS OFFICE

Michael Hussey testified that they would like to add a front porch, a side porch and a side door entrance; that other houses in the area have front porches; that they have three people in the family and have owned the house for twenty years.

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 total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar front porch additions have been constructed in the area.
2. The requested front yard, side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar front porch additions have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested front yard, side yard and total side yard 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. Similar front porch additions have been constructed in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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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 front yard, side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

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The foregoing resolution to approve the application for the requested front yard, side yard and total side yard variances was presented and moved by Ms. Salomon, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: January 4, 2017

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 OF ORANGETOWN
2017 JAN 19 PM 12 24
TOWN CLERKS OFFICE

DECISION

BUILDING HEIGHT VARIANCE APPROVED

To: Donald Brenner (South Corner Plaza)
4 Independence Avenue
Tappan, New York 10983

ZBA #17-03
Date: January 4, 2017
Permit # Not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-03: Application of South Corner Plaza for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Group JJ, Column 12 (Building Height: 19' 11.94" permitted from the northeast property line, 33'8" proposed for the clock tower, 24' to the parapet, 35' 7" to arch canopy are proposed) for a proposed shopping plaza. The commercial property is located at 2 Route 340, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.11, Block 2, Lot 47; in the CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 4, 2017 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Diane Samimi and Matthew Oscar, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans with site plan dated of September 26, 2016 by Matthew Oscar, Registered Architect (2 pages).
2. Zoning Board Decision #15-66 dated July 15, 2015.
3. A letter from the County of Rockland Drainage Agency dated January 4, 2016 signed by Vincent Altieri, Executive Director.
4. A letter dated December 21, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
5. A letter dated December 29, 2016 from the Rockland County Sewer District #1, signed by Joseph La Fiandra, Engineer II.
6. A letter dated December 31, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 September 26, 2011 (PB#09-20) 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. Salomon and carried as follows: Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Ms. Salomon, aye. Ms. Sullivan was absent.

Donald Brenner, Attorney, testified that this application was before this Board on July 15, 2015 and received variances for the parking and rear yard and Route 303 Overlay; that they went to ACABOR after that and when they reviewed the plans they liked a plan that was presented with the clock tower; that this plan needs a height variance to accommodate the clock tower; that it is a very attractive plan; that the existing house on the property is probably as high as the requested variance and that they would like to request an override from #5 of the letter from Rockland County Department of Planning, to keep things clean; that they were already granted variances from the Overlay zone in ZBA#15-66; that the Planning Board already granted SEQRA approval and the bridge from Route 303 to the property has been approved and the curb cut from Route 340 has been approved; that a full traffic study was done by John Collins; that the bridge does not touch the Moore & Moore building and it will be built from steel and concrete.

Public Comment:

Marianne Garrecht, 20 Delongis Court, Sparkill, NY expressed her concern about access to the property being so close to the Moore & Moore building; and questioned what type of access there would be and how close it would be from the Moore & Moore building and about concerns regarding parking and the creek.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is substantially lower than Route 303 and the clock tower is attractive.
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. The property is substantially lower than Route 303 and the clock tower is attractive.
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.
4. The requested building height 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. The existing non-conforming house on the property is at least as tall as the proposed height variance for the shopping center, which will be set back further from the road.

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 variance.

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 the Board overrides #5 from the Rockland County Department of Planning letter dated December 21, 2016, (see ZBA Decision #15-66 dated July 15, 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.

South Corner Plaza
ZBA#17-03
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Permit # not assigned

The foregoing resolution to approve the application for the requested building height variance and to override modification #5 of the letter dated December 21, 2016 from the County of Rockland Department of Planning (see ZBA Decision #15-66 dated July 15, 2016) was presented and moved by Mr. Feroldi, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: January 4, 2017

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 OF ORANGETOWN
2017 JAN 19 PM 12 24
TOWN CLERKS OFFICE

DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: James Riley (Foley)
144 E. Central Avenue
Pearl River, New York 10965

ZBA #17-04
Date: January 4, 2017
Permit # 45109

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-04: Application of Robert Foley for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 17' existing to house, 18' to deck), and 10 (Total Side Yard: 50' required, 34.4' existing for house, 35.4' to deck) to bring an existing deck to compliance at an existing single-family residence. The premises are located at 520 Orangeburg Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 2; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 4, 2017 at which time the Board made the determination hereinafter set forth.

Robert and Lauren Foley and James Riley, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans dated November 10, 2015 signed and sealed by Barbara Hess, Registered Architect.
2. Survey dated September 29, 2015 signed and sealed by James E. Drumm, L.S.

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

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

James Riley, Attorney, testified that the Foley's purchased the house from Mr. Desmond in 2015; that Mr. Desmond owned the since 1964 and purchased it with the deck; that the deck was constructed before decks were concerns ; that the original deck was built with the house in 18=964 and recently brought up to code; that he side yard and total side yard are existing conditions; and that it fits into the character of the neighborhood and it does not have electric or heat.

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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.

Ms. Castelli 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 the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The deck has existed for some time without incident and has been brought up to code when it was refurbished.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks have been constructed in the area and has been brought up to code when it was refurbished.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested side yard and total side yard 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. Similar decks have been constructed in the area and has been brought up to code when it was refurbished.
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 side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

(iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

(iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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


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The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Ms. Salomon, aye. Mr. Sullivan was absent.

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

DATED: January 4, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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CHAIRMAN, ZBA, PB, ACABOR

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