

MINUTES
ZONING BOARD OF APPEALS
March 1, 2017

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

ABSENT: JOAN SALOMON

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

NEW ITEMS:

WONG 17 Dutchess Drive Orangeburg, NY 74.13 / 1 / 82; R-22 zone	SIDE YARD,TOTAL SIDE YARD, BUILDING HEIGHT, AND ACCESSORY STRUCTURE VARIANCES APPROVED	ZBA#17-17
BURNS 361 Manor Boulevard Pearl River, NY 69.05 / 3 / 43; CS zone	SIDE YARD, TOTAL SIDE YARD AND POOL SETBACK VARIANCES APPROVED	ZBA#17-18
KOLB SUBARU 582 Route 303 Blauvelt, NY 70.14 / 4 / 12; CC zone	§ 3.11 CC DISTRICT, COLUMN 7 #2 (RETAIL SALES WITHIN A COMPLETELY ENCLOSED BUILDING) § 13.10 B.(10) (ROUTE 303 OVERLAY) APPROVED	ZBA#17-19
INSTRUMENTATION LABORATORY PERFORMANCE STANDARDS FOR EMERGENCY GENERATOR 526 Route 303 Orangeburg, NY 70.19 / 1 / 45; LO zone	PERFORMANCE STANDARDS APPROVED	ZBA#17-20
PEARL MONT SIGNS 164 South Pearl Street Pearl River, N.Y. 72.08 / 1 / 2; LIO zone	§3.11, COLUMN 5 #11 APPROVED WITH SPECIFIC CONDITION	ZBA#17-21

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CORNIELLE
148 South Main Street
Pearl River, N.Y.
68.20 / 5 / 44; RG zone

CONTINUED

ZBA#17-22

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: Subaru Distrubution Center Expansion Site Plan, 6 Ramland Road, Orangeburg, NY; 73.20 / 1 / 25; LIO zone; Karp Site Plan-Critical Enviornmental Area, 242 Tweed Boulevard, Sparkill, N.Y.; 75.09/ 1 / 1; R-80 zone; Pearlcrest Estates Subdivision Plan- 3 lots; 149 and 165 South Main Street, Pearl River, NY Section 72.08 / 1 / 7; and 68.20 / 5/ 20; RG zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

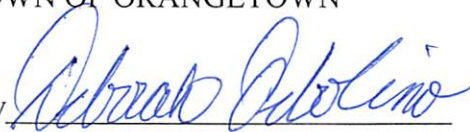
The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

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

Dated: March 1, 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 OF ORANGETOWN
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DECISION

**SIDE YARD 14', TOTAL SIDE YARD 35', AND ACCESSORY STRUCTURE
DISTANCE 5.1' VARIANCES APPROVED AS MODIFIED WITH SPECIFIC
CONDITIONS**

To: Hsiao Wen Wong
17 Dutchess Drive
Orangeburg, New York 10962

ZBA #17-17
Date: March 1, 2017
Permit # 46008

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-17: Application of Hsiao Wen Wong for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Columns 9 (Side Yard: 25' required, 8.98' proposed) and 10 (Total Side Yard: 60' required, 29.98' proposed), 12 (Building Height: 6.73' permitted, 11.5' proposed: withdrawn) and from Section 5.153 (Accessory structure Distance from Principal building: 15' required, 11.25' proposed) for proposed carport and breezeway at a single-family residence. The premises are located at 17 Dutchess Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 1, Lot 82; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 1, 2017 at which time the Board made the determination hereinafter set forth.

Wen Wong and Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Site plan based on survey by Caruso & Haller, P.C. not dated with Architects Field Measurements signed and sealed by Jonathan Hodash, Achitect, last revised January 8, 2017.
2. Architectural plans last revised January 8, 2017 by Jonathan Hodash, Registered Architect.
3. Three computer generated pictures of the accessory structure without a certificate of occupancy.

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; Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Ms. Salomon was absent.

Jonathan Hodash, Architect, testified that this is a two faceted project; that they are proposing to construct a new two car garage with the four foot breezeway and converting the original garage into two bedrooms and a bathroom for his parents and family when they visit; that they did not create any of the structures that exist on the property; that they are asking for the four foot breezeway so that they can access the rear yard through it; that they are not going any higher than the existing house; that the garage will be one story, eleven feet to the plate with five or six feet above for two windows but no additional floor; that the accessory structure is a mini pool house with a toilet and slide for the pool and small deck above it; that the lot is oddly shaped and they cannot use the rear portion because of the easement; that they could give up the breezeway and have the front line up with the door and eliminate the breezeway and move the structure further

back to increase the side yard and total side yard; that he misunderstood about the accessory structure and thought it was existing prior to the purchase; that they are moving the existing shed out of the easement and that he will call tomorrow with the exact measurements if the structure is moved back.

Wen Wong testified that he has a four year old and a two year old; that he does have small dirt bikes or quads; that he works many hours during the week; that when he is off on week-ends he does use his yard and he plays with the kids; that they have an outdoor t-v for his family ; that his parents come up from Queens and they are in their mid 70's; that he does car racing and has five cars; that they are his toys; that the other neighbors that live next door on both sides and across the street are fine with him; that he did not know that he was disturbing these neighbors; that he can and will remove the zip line; and he will get a certificate of occupancy for the poolhouse shed.

Public Comment:

Jose Figueroa, 181 E. Rutgers road, testified that he has lived in his house for ten years; that the previous owner was very considerate; that the slide was not there with the previous owner; that he lives in the house directly behind the house; that the property is already overutilized.

Akiko Hymeno, 181 E. Rutgers Road, testified that new construction has taken place at the house since the last owners sold the house; that the new owners built the structure with the slide, and they built a zipline right at the property line with a landing that is in the tree at the rear corner of the property and it is high enough to see right into their house; that they have an outdoor television that is on from 9 A.M. to 8 P.M. and it can be heard in her house; that the motorcycle around the back yard is very loud; that they do not live on 10 acres of property; that there should be more consideration for the neighbors.

Mary Margaret Ioveriero, 182 Rutgers Road, testified that the house is a one-family house that presently has five cars in the driveway; that she just heard that they are planning to convert the existing garage into two additional bedrooms and a bathroom; that the property is over utilized now; that if more bedrooms are added there will probably be more cars; that there is a race track in the backyard, a pool with slide, a zip line, the large screen t-v, it's like universal and noisy; not everything should be shared with the neighbors; and there should be more consideration for the neighbors.

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.

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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, total side yard, and Section 5.153 accessory structure distance from the principal building variances, as modified, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has removed the proposed 4' breezeway between the new proposed garage and the existing house and has moved the proposed garage back further from the lot line, in order to increase the proposed side yard. These changes have increased the variance needed for the accessory structure distance from the principal building, which accessory structure was built without a permit, and the applicant must legalize that accessory structure before a building permit will be issued for the proposed garage.
2. The applicant has agreed to remove the existing zip line, and the platforms that were built for it, from the property. The existing shed that is within the easement shall be moved out of the easement.
3. The requested side yard, total side yard, and Section 5.153 accessory structure distance variances, as modified, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has removed the proposed 4' breezeway between the new proposed garage and the existing house and has moved the proposed garage back further from the lot line, in order to increase the proposed side yard. These changes have increased the variance needed for the accessory structure distance from the principal building, which accessory structure was built without a permit, and the applicant must legalize that accessory structure before a building permit will be issued for the proposed garage.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested side yard, total side yard, and Section 5.153 accessory structure distance variances, as modified, 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 removed the proposed 4' breezeway between the new proposed garage and the existing house and has moved the proposed garage back further from the lot line, in order to increase the proposed side yard. These changes have increased the variance needed for the accessory structure distance from the principal building, which accessory structure was built without a permit, and the applicant must legalize that accessory structure before a building permit will be issued for the proposed garage.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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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 side yard, total side yard, and Section 5.153 accessory structure distance from principal building variances as modified: (**Side Yard 14'; Total Side Yard 35'; Section 5.153 accessory structure distance: 5.1'; and building height variance was withdrawn**) are APPROVED with the following SPECIFIC CONDITIONS: (1) The proposed garage has been moved back from the lot line to accommodate a larger side yard of 14' and total side yard of 35'; (2) the four foot wide breezeway has been eliminated from the plan; (3) the applicant shall obtain a certificate of occupancy for the accessory structure on the property with the slide attached to it, **before** issuance of the building permit for the garage; (4) the existing zipline, and the platforms associated with it, shall be removed from the property; 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, total side yard, and Section 5.153 accessory structure distance from the principal building variances as modified (**Side Yard 14'**; **Total Side Yard 35'**; **Section 5.153 accessory structure distance: 5.1'**; **and building height variance was withdrawn**) with the following specific conditions: (1) The proposed garage has been moved back from the lot line to accommodate a larger side yard of 14' and total side yard of 35'; (2) the four foot wide breezeway has been eliminated from the plan; (3) the applicant shall obtain a certificate of occupancy for the accessory structure on the property with the slide attached to it, **before** issuance of the building permit for the garage; (4) the existing zipline, and the platforms associated with it, shall be removed from the property; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Bosco, aye. Ms. Salomon 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: March 1, 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

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DECISION

SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: James Burns
361 Manor Boulevard
Pearl River, New York 10965

ZBA #17-18
Date: March 1, 2017
Permit # 45787

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-18: Application of James Burns 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, 4'9" proposed), 10(Total Side yard: 50' required, 24' 9" proposed) (Section 33-4 applies) for an existing pool and deck at an existing single-family residence. The premises are located at 361 Manor Boulevard, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 3, Lot 43; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 1, 2017 at which time the Board made the determination hereinafter set forth.

James Burns and Karl Ackerman, Architect, appeared and testified.

The following documents were presented:

1. Survey for Harriet Brill dated August 30, 1960 by Barbour & Jost, L.S..
2. Architectural plans dated September 5, 2016 by Karl Ackermann, Registered Architect with the latest revision date of October 29, 2016.

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; Mr. Burns, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Feroldi, aye. Ms. Salomon was absent.

Karl Ackermann, Architect, testified that Mr. Burns has lived in Pearl river for many years and raised his family here; that the pool and deck were installed in 1981 and resurfaced in 1999; that he found out that the needed a variance when he added a heater to the pool and is asking for forgiveness to be able to maintain the existing pool and deck.

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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 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 pool and deck have existed for many years without complaint or incident.
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. The pool and deck have existed for many years without complaint or incident.
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. The pool and deck have existed for many years without complaint or incident.
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. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Mr. Bosco, aye. Ms. Salomon 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: March 1, 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

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DECISION

**SECTION 3.11, COLUMN 7 #2 AND SECTION 13.10 B. (10) VARIANCES
APPROVED**

To: Donald Brenner (Kolb Subaru)
4 Independence Avenue
Tappan, New York 10983

ZBA #17-19
Date: March 1, 2017
Permit # 45885

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#17-19: Application of Kolb Subaru for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 3.11, Column 7 # 2(All retail sales and service establishments and accessory storage, either on a temporary or interior basis, shall be within a completely enclosed building) and from Section 13.10, B.(10) :9 (Not more than 35 percent of all parking shall be located within the front yard of any lot or parcel: 50 spaces are located within the front yard) for a site plan for Kolb Subaru.

The premises are located at 582 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.14, Block 4, Lot 12; in the CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 1, 2017 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Jay Greenwell, Land Surveyor, appeared and testified.

The following documents were presented:

1. Site Plan for Kolb Subaru dated November 9, 2016, revised December 20, 2016 signed and sealed by Jay Greenwell, L.S..
2. A letter dated March 1, 2017 from the County of Rockland Department of Planning signed by Douglas J. Scheutz, Acting Commissioner of Planning.
3. A letter dated February 1, 2017 from the Rockland County Division of Environmental Health signed by Scott McKane, P.E., Senior Public Health Engineer.
4. A letter dated February 27, 2017 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 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 this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning Board conducted a SEQRA review and, on January 25, 2017 rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" or "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. Feroldi, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Salomon was absent.

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Donald Brenner testified that Subaru has been operating for many years in its current location on Route 303; that there is not enough space there for the operation to successfully expand in its present location; that they are proposing to service cars at the location before the Board on Route 303 and Erie Street; that they have already received preliminary approval and a Neg Dec from the Planning Board; that they are planning to remove the existing deteriorated building and replace it with a new building that will service cars only; that there will be no sales at this location.

Jay Greenwell, Land Surveyor, testified that they are installing a berm a few feet high that will shield the headlights and vehicles from Route 303; that the new building will be built where the old building was; that they are planning to use the current curb cuts; that they are expanding the number of spaces in the front yard; that they have identified on the site the area for employee parking and where the loaner cars will be located and there might be some cars parked overnight if the service on them was not able to be completed in one day.

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 variances from Section 3.11, Column 7 #2 accessory storage shall be within completely enclosed building, and from Section 13.10 B (10) parking in front yard, will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant shall appear before ACABOR for approval of the planting plan and the new building will be an improvement for the lot.
2. The requested variances from Section 3.11, Column 7 #2 accessory storage shall be within completely enclosed building and from Section 13.10 B (10) parking in front yard, will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant shall appear before ACABOR for approval of the planting plan and the new building will be an improvement for the lot.
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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4. The requested variances from Section 3.11, Column 7 #2 accessory storage shall be within completely enclosed building and from Section 13.10 B (10) parking in front yard, 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 shall appear before ACABOR for approval of the planting plan and the new building will be an improvement for the lot.
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 variances from Section 3.11, Column 7 #2 accessory storage shall be within completely enclosed building and from Section 13.10 B (10) parking in front yard, are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

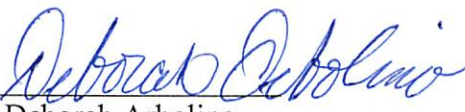
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown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

The foregoing resolution to approve the application for the requested variances from Section 3.11, Column 7 #2 accessory storage shall be within completely enclosed building and from Section 13.10 B (10) parking in front yard, was presented and moved by Ms. Castelli, seconded by Mr. Quinn, and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Mr. Bosco, aye. Ms. Salomon 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: March 1, 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 OF ORANGETOWN
2017 MAR 17 PM 12 49
TOWN CLERKS OFFICE

DECISION

PERFORMANCE STANDARDS APPROVED

To: Randall Vlasck (Instrumentation Lab)
526 Route 303
Orangeburg, New York 10962

ZBA #17-20
Date: March 1, 2017
Permit # 45943

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 17-20: Application of Instrumentation Laboratory Co. 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 an emergency generator. The building is located at 526 Route 303, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 45; in the LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 1, 2017 at which time the Board made the determination hereinafter set forth.

Randall Vlasak and Robert Neely, Vista Electric, appeared and testified.

The following documents were presented:

1. Copy of Site Plan by William T. Manning, L.S..
2. Two color pictures and a layout plan of the existing generator and the electrical set up.
3. Fourteen pages of generator specs.
4. Resume of Operations dated December 28, 2016
5. Fire Prevention Supplement.
6. A letter dated March 1, 2017 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
7. A memorandum dated February 17, 2017 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
8. A letter dated March 1, 2017 from the Rockland County 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, 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; and Mr. Sullivan, aye. Mr. Bosco and Ms. Salomon were absent.

Randall Vlasak testified that they are installing a 60 kw emergency generator in the parking area; that they are replacing the one that is there; that the company does diagnostic blood systems; that the building has been there since 1959; that it was Fisher Diagnostics in 1993; that freeze drying does make heat but they are here for performance standards for the generator; that they did do performance standards for the company in October 2012.

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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.

The Board reviewed the Performance Standards and Fire Prevention Supplement.

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 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 March 1, 2017 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated February 17, 2017 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated March 1, 2017 from Douglas J. Schuetz, 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 March 1, 2017 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (2) the report dated February 17, 2017 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and (3) the report dated March 1, 2017 by Douglas J. Schuetz, 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.

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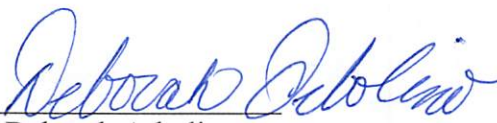
TOWN OF ORANGETOWN

The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: (1) the report dated March 1, 2017 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (2) the report dated February 17, 2017 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and (3) the report dated March 1, 2017, from Douglas J. Schuetz, Rockland County Department of Planning; shall be complied with; was presented and moved by Ms. Salomon, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Bosco abstained; Mr. Quinn, aye ; Mr. Sullivan, aye; and Ms. Castelli, aye. Ms. Salomon 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: March 1, 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
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TOWN CLERKS OFFICE

DECISION

SIGNAGE VARIANCE SECTION 3.11, COLUMN 5 # 11 APPROVED WITH SPECIFIC CONDITIONS

To: Raymond Ahmadi (Pearl Mont)
227 South Mountain Road
New City, New York 10956

ZBA #17-21
Date: March 1, 2017
Permit # 45710

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 17-21: Application of Pearl Mont Corp. Signs for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Section 3.11, Column 5 # 11(60 sq. ft. signage permitted: 302 sq. ft. proposed) for eight signs at an existing carwash. The building is located at 164 South Pearl Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 72.08, Block 1, Lot 2; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 1, 2017 at which time the Board made the determination hereinafter set forth.

Raymond Ahmadi appeared and testified.

The following documents were presented:

1. As-built site plan proposed sign locations with the latest revision date of 01/16/2017 by R A Associates not signed or sealed.
2. Sign list stamped in January 25, 2017 updated signs.
3. A memorandum dated January 24, 2017 from David Majewski, Building Inspector.
4. A memorandum dated January 11, 2017 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
5. A letter dated February 27, 2017 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated February 27, 2017 from 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 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 this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning Board conducted a SEQRA review and, on January 11, 2017 rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. a "Negative Declaration" 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. Feroldi, aye; Ms. Castelli, aye; Mr. Sullivan, aye; and Mr. Boscolo, aye. Mr. Salomone was absent.

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Raymond Ahmadi testified that he has owned this business for ten years; that he has a very small sign and people cannot find him even with GPS; that he went to the Planning Board in 2007 asking for 400 sq. ft. of signs and they said no and now he is applying for the signs from this Board; that he needs signage so that customers can find him; that he has security cameras but cannot get clearance to see who the license plates belong to; that the self-wash bays are open all night; and that he would turn the lights for the signs off at 11 P.M. and back on at 8A.M.

Public Comment:

Linda Curley, 95 Grand Avenue, Pearl river, testified that the car wash is a gathering place for party time and there are groups of kids hanging around and they drag race on Route 304 and some of them must have scanners because when she calls the police they disperse and return after the police leave; and that she will start documenting every time she calls the police; that she would appreciate it if the lights went out at 11P.M..

Dennis Troy, 111 Grand Avenue, Pearl River, testified that the workers that on shift at night must know many of the people that are hanging around; that the owner should talk to the employees and stop the behavior; that he can't hear well from his house but he is concerned about the hazards on Route 304 and the fact that the lanes narrow down at this location.

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 variance from Section 3.11, Column 5 # 11(60 sq. ft. signage permitted: 302 sq. ft. proposed) for eight signs will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board found that there are many signs in the area that are not related to the carwash and that the proposed signs are necessary for the operation of the business.
2. The requested variance from Section 3.11, Column 5 # 11(60 sq. ft. signage permitted: 302 sq. ft. proposed) for eight signs will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board found that there are many signs in the area that are not related to the carwash and that the proposed signs are necessary for the operation of the business.
3. The Board agreed to override the letter dated February 27, 2017, from the Rockland County Planning Department and to uphold the letter dated January 24, 2017 from David Majewski, Orangetown Building Inspector.

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4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining the variance.
5. The requested variance from Section 3.11, Column 5 # 11(60 sq. ft. signage permitted: 302 sq. ft. proposed) for eight signs, 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.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested variance from Section 3.11, Column 5 # 11(60 sq. ft. signage permitted: 302 sq. ft. proposed) for eight signs is APPROVED with the SPECIFIC CONDITION that the lights for the signs are turned off at 11:00 P.M. and turned on at 8:00 A.M.; 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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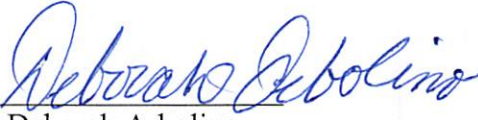
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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 variance from Section 3.11, Column 5 # 11(60 sq. ft. signage permitted: 302 sq. ft. proposed) for eight signs is APPROVED with the SPECIFIC CONDITION that the lights for the signs are turned off at 11:00 P.M. and turned on at 8:00 A.M.; was presented and moved by Mr. Feroldi, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; and Mr. Bosco, aye. Ms. Salomon 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: March 1, 2017

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
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