

MINUTES  
ZONING BOARD OF APPEALS  
September 7, 2016

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

ABSENT: MICHAEL BOSCO

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:

GIONTA/KIVLEHAN 118 Gatto Lane Pearl River, NY 68.07/ 2 / 23; R-15 zone	FLOOR AREA RATIO, ZBA#16-71 SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED
PASTORE/STUDER 679 Western Highway Blauvelt, N.Y. 70.06 / 1 / 28; R-40 zone	SIDE YARD, TOTAL SIDE ZBA#16-72 YARD AND BUILDING HEIGHT VARIANCES APPROVED
VOZZOLO 12 Hunderfund Lane Pearl River, N.Y. 68.11 / 3 / 23; R-15 zone	FLOOR AREA RATIO, ZBA#16-73 FRONT YARD AND TOTAL SIDE YARD VARIANCES APPROVED
WASACZ 8 Venter Lane Pearl River, NY 64.18 / 1 / 40; R-15 zone	POSTPONED ZBA#16-74 NOT POSTED
FLANAGAN 20 Hilltop Drive Pearl River, NY 69.17 / 1 / 81; R-15 zone	FLOOR AREA RATIO, ZBA#16-75 SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED UNDERSIZED LOT § 5.21 APPLIES
MANHATTAN WOODS STORAGE BUILDING 1 Ahlmeyer Drive West Nyack, NY 69.11 / 1 / 1; R-80 zone	SIDE YARD VARIANCE ZBA#16-76 APPROVED

TOWN OF ORANGETOWN  
2016 SEP 26 PM 9 50  
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KIM  
123 Parkway Drive South  
Orangeburg, NY  
74.10 / 1 / 18; RG zone

FLOOR AREA RATIO AND  
REAR YARD VARIANCE  
APPROVED

ZBA#16-77

CONTINUED ITEM:

URBAN ELECTRIC POWER  
PERFORMANCE STANDARDS  
401 North Middletown Road  
Pearl River, NY  
68.08 / 1 / 1; LI/LIO zone

REVIEW  
COMPLETE

ZBA#16-56

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: Building 222 Emergency Generator Site Plan, 401 North Middletown Road, Pearl River, NY; 68.08 / 1 / 5; LI zone; Prestige Automotive Prep Center Fuel Tank Site Plan, 200 Oritani Drive, Blauvelt, NY 65.18 / 1 / 22; LO zone; Gentle Giant Brewing, 7 North Main Street, Pearl River, NY 68.16 / 1 / 16; CS 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.

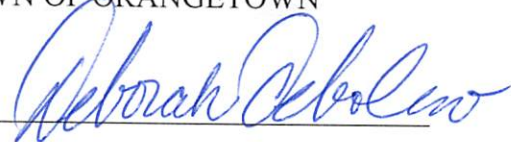
The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:35 P.M.

Dated: September 7, 2016

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

2016 SEP 26 AM 9 50

TOWN OF ORANGETOWN

## DECISION

### FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED

To: Marion Gionta  
118 Gatto Lane  
Pearl River, New York 10913

ZBA #16-71  
Date: September 7, 2016  
Permit # 45407

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 16-71: Application of Marion Gionta, Kevin and Margaret Kivlehan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .24 proposed), 9 (Side Yard: 20' required, 19.5' existing & proposed), 10 (Total Side Yard: 50' required, 39.1' proposed) and 12 (Building Height: 19.5' permitted, 20'2" proposed) for an addition to an existing single-family residence. The premises are located at 118 Gatto Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.07, Block 2, Lot 23; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Margaret Kivlehan, Marion Gionta and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Site plan dated 4/10/2016 based on survey prepared by Robert E. Sorace, PLS dated February 24, 1997 signed and sealed by Jane Slavin, Architect.
2. Architectural plans dated 4/10/2016 signed and sealed by Jane Slavin, Architect.

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

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

Margaret Kivlehan testified that they would like to add to the main floor of the house for living space; that they need to enlarge the kitchen and family room; that they have been in the house for twenty years; that her father built the house; that she has four boys aged 13, 16, 17 and 18; that they do not all fit around the table anymore.

Jane Slavin testified that the lot is undersized for the area; that they are proposing to bump out in the rear of the house 16' x 20' and because the property slopes the basement will be a walkout basement that will count in the floor area ratio; that the side yard and total side yard are existing and are not changing; that the main floor bump out will add 400 sq. ft. of additional living space but because the basement is above ground an additional 400 sq. ft. of basement space is being counted in the floor area calculations; and the existing house is 2 ½ stories and approximately 26' average mean height and the proposed addition would have an average mean height of 20'2" and 17' 5" to the eave.

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 50  
TOWN CLERKS OFFICE

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, side yard, total 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 neighborhood.
2. The requested floor area ratio, side yard, total 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 neighborhood.
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, side yard, total 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 neighborhood.
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

2016 SEP 26 AM 9 51

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, side yard, total 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.


TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard and building height variances was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco 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: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

## DECISION

### **SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED**

To: Kathleen Studer  
679 Western Highway  
Blauvelt, New York 10913

ZBA #16-72  
Date: September 7, 2016  
Permit # 45453

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-72: Application of Ronald Pastore and Kathleen Studer for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group A, Columns 9 (Side Yard: 30' required, 15.1 & 27.8' proposed) 10 (Total Side Yard: (80' required, 42.9 proposed) and 12 (Building Height: 8" per foot permitted, 1' 1 ½" per foot proposed) for an addition to an existing single-family residence. The premises are located at 679 Western Highway, Blauvelt, New York and are identified on the Orangetown Tax Map as 70.06/ 1 / 28; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Ronald Pastore and Kathleen Studer appeared and testified.

The following documents were presented:

1. Plot plan based on survey by Robert R. Rahnefeld, L.S. dated 07/18/1996 by Harry Goldstein, Architect, dated May 19, 2016.
2. Architectural plans dated May 19, 2016 by Harry Goldstein, Architect, not signed or sealed.
3. A letter dated August 3, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated August 24, 2016 from the Rockland County Sewer District No 1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated July 12, 2016 from the Rockland County Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.
6. A letter dated August 31, 2016 from the Rockland County Highway Department signed by Sonny Lin, P.E..

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

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

Kathleen Studer testified that when they purchased the house they did not have three children; now with three children they need to remodel and add onto the house; that the house faces east to west and the property is long and skinny; that the house is a ranch style house that they are adding a second story onto and a family room addition on the back of the house along with a new deck; and that the second story deck is not wide but she doesn't know the exact measurements of it.

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE



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, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized for the R-40 zoning district and the property is long and narrow. The house is a long thin ranch style house and the proposed second floor will not change the character of the neighborhood because most of the surrounding houses are 2 story houses.
2. The requested side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is undersized for the R-40 zoning district and the property is long and narrow. The house is a long thin ranch style house and the proposed second floor will not change the character of the neighborhood because most of the surrounding houses are 2 story houses.
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, total side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The lot is undersized for the R-40 zoning district and the property is long and narrow. The house is a long thin ranch style house and the proposed second floor will not change the character of the neighborhood because most of the surrounding houses are 2 story houses.
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 OF ORANGETOWN  
2016 SEP 26 PM 9 51  
TOWN CLERK'S OFFICE



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard, total side yard and building height variances are APPROVED with the Specific Condition that the applicant 's architect clearly define the size of the second story deck; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

TOWN OF ORANGETOWN  
2016 SEP 26 PM 9 51  
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested side yard, total side yard and building height variances, with the Specific Condition that the Applicant's architect clearly define the size of the second story deck, was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco 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: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, FRONT YARD, AND TOTAL SIDE YARD  
VARIANCES APPROVED**

To: Emilio and Theresa Vozzolo  
12 Hunderfund Lane  
Pearl River, New York 10913

ZBA #16-73  
Date: September 7, 2016  
Permit # 45402

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-73: Application of Emilio and Theresa Vozzolo 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, .204 proposed), 8 (Front Yard: 30' required, 27.5' proposed) and 10 (Total Side Yard: 50' required, 43.27' proposed) for an addition to an existing single-family residence. The premises are located at 12 Hunderfund Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 3, Lot 23; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Emilio and Theresa Vozzolo appeared and testified.

The following documents were presented:

1. Architectural plans dated 06/10/2016 signed and sealed by William J. Martin, Architect.

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

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

Theresa Vozzolo testified that she has lived in the house for 35 years; that in 2009 they purchased the house from her mom; that they are adding living space by bumping out six foot in the front of the house; that the road also curves at that point and cuts into the front yard more; that they are also adding on the side of the house for additional bedroom space; that they had originally considered addition more but cut back because they needed variances.

Emilio Vozzolo testified that they have one of the smaller houses on the block; that most of the other houses have two car garages and is cantilevered on the second floor.

TOWN OF ORANGETOWN  
2016 SEP 26 PM 9 51  
TOWN CLERKS OFFICE

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 and total side yard 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 neighborhood.
2. The requested floor area ratio, front 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 additions have been constructed in the neighborhood.
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 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 additions have been constructed in the neighborhood.
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 OF ORANGETOWN  
2016 SEP 26 PM 9 51  
TOWN CLERKS OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE

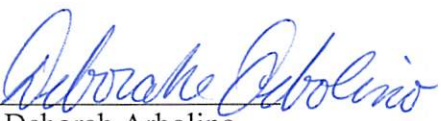
2016 SEP 26 AM 9 51

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, front yard and total side yard variances was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco 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: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

DECISION

**FLOOR AREA RATIO, SIDE YARD AND BUILDING HEIGHT VARIANCES  
APPROVED §5.21 UNDERSIZED LOT APPLIES**

To: Brian and Elizabeth Flanagan  
20 Hilltop Drive  
Pearl River, New York 10913

ZBA #16-75  
Date: September 7, 2016  
Permit # 45445

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-75: Application of Brian and Elizabeth Flanagan 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, .208 proposed), 9 (Side Yard: 15' required, 14.20' proposed), and 12 (Building Height: 14.20' permitted 26.6' proposed); (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 20 Hilltop Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.17, Block 1, Lot 81; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Brian and Elizabeth Flanagan appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/24/2016 signed and sealed by Jennifer Claire Lucas, Architect.

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

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

Brian Flanagan testified that they have a very small two bedroom ranch that they would like to expand and add a second story to it; that they plan to remodel the first floor for an open layout; that he was told that the side yard is an existing non-conforming condition; that the lot is undersized; and that there will be no change to the footprint.

TOWN OF ORANGETOWN  
2016 SEP 26 PM 9 51  
TOWN CLERKS OFFICE



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, 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, 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, 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 OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, 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.

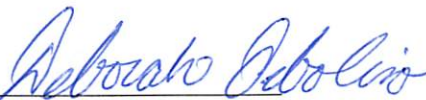
TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, side yard, and building height variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco 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: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

DECISION

**SIDE YARD VARIANCE APPROVED**

To: Jesse Shannon (Manhattan Woods)  
1 Ahlmeyer Drive  
West Nyack, New York 10994

ZBA #16-76  
Date: September 7, 2016  
Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-76: Application of Manhattan Woods Storage Building for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Group D, Section 3.12, Column 9 (Side Yard: 100' required, 61' proposed) for a storage building at the existing Golf Club. The premises are located at 1 Ahlmeyer Drive, West Nyack, New York and are identified on the Orangetown Tax Map as Section 69.11, Block 1, Lot 1; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Jesse Shannon and Jay Greenwell, land Surveyor, appeared and testified.

The following documents were presented:

1. Plot Plan for Storage Building Manhattan Woods dated 12/15/2015 with the latest revision date of 06/09/2016 signed and sealed by Jay A. Greenwell, PLS.
2. A google earth map of the area.
3. A letter dated August 15, 2016 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning
4. A letter dated August 4, 2016 from the Town of Clarksstown signed by Shirley J. Thormann, Chairwoman, Planning Board.
5. A letter dated August 24, 2016 from the Rockland County Sewer District No 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated Sept. 6, 2016 from Jay Greenwell, Land Surveyor to Mr. LaFiandra answering his concerns from his August 24, 2016 letter.
7. A letter dated August 31, 2016 from the Rockland County Highway Department signed by Sonny Lin, p.E..

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that 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 applications, 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 July 13, 2016 rendered an environmental determination of no significant adverse environmental impact 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; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

TOWN CLERKS OFFICE  
2016 SEP 26 PM 9 51  
TOWN OF ORANGETOWN

Jay Greenwell, Land Surveyor, testified that when they first started the project for the proposed shed to house the equipment used to maintain golf course; they looked at the R-80 zoning district and thought that the side yard requirement of 30 feet would be met without a problem; that as they got further along they realized that they needed to look at the R-80 District under "other uses" for the side yard requirement ; that they realized that they needed a 100' side yard and they do not have the space to accommodate that side yard setback; that they are before the Board to request a 30' set back and would like to show the Board a google earth map of the area, to show how densely screened it is; that the proposed location abuts the Greek Orthodox Church's extra gravel parking lot that is used during the Greek Festival; and that there is zero visibility to the shed.

Jesse Shannon testified that the shed is an A-frame metal building with a 14' door and it is 14'4" high.

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The section of the property that will house the shed is not visible from surrounding properties because of the dense landscaping.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The section of the property that will house the shed is not visible from surrounding properties because of the dense landscaping.
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 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 section of the property that will house the shed is not visible from surrounding properties because of the dense landscaping.

TOWN OF ORANGETOWN  
2018 SEP 26 AM 9 51  
TOWN CLERK'S OFFICE

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

General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE  
2018 SEP 26 PM 9 51  
TOWN OF ORANGETOWN

Manhattan Woods Storage Shed  
ZBA#16-76  
Page 4 of 4

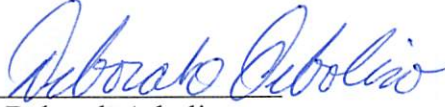
Permit # not assigned

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco 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: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR-not assigned

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

TOWN CLERKS OFFICE

2016 SEP 26 AM 9 51

TOWN OF ORANGETOWN



DECISION

**FLOOR AREA RATIO, TOTAL SIDE YARD (PRE-EXISTING NON-CONFORMING) AND REAR YARD VARIANCES APPROVED**

To: Jane Slavin (Kim)  
200 Erie Street East Suite 1E  
Blauvelt, New York 10913

ZBA #16-77  
Date: September 7, 2016  
Permit #45446

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-77: Application of Ki and Betty Kim for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .31 proposed), 10 ( Total Side Yard: 50' required, 25.9' pre-existing non-conforming) and 11 (Rear Yard: 25' required, 22.5' proposed ) for an addition to an existing single-family residence. The premises are located at 123 Parkway Drive South, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 69.18, 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, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Ki and Betty Kim and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 05/16/2016 with revision date of 06/22/2016 signed and sealed by Jane Slavin, Architect.
2. Rockland Base Map of the area showing the Kim residence.
3. A Google earth map showing the Kim residence.

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

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

Betty Kim testified that they have three growing children and they need more space; that they have one college aged and a thirteen and nine year old; that they would like to stay in the house until they are all done in college; and that they just need more space.

Jane Slavin, Architect, testified that the lot is substandard; that they are asking for a variance of 2.4 feet in the rear yard that they are constructing a master bedroom/bathroom and closet; and that if the lot was conforming they would have a 25% floor area; that almost all of the neighbors have bumped out in the rear as shown on the maps.

TOWN CLERKS OFFICE

2016 SEP 26 AM 9 51

TOWN OF ORANGETOWN

Public Comment:

Irwin Rieders, 119 Parkway Drive South, testified that he is the next door neighbor and that he wants to make sure that no construction vehicles enter the property through his property because he had underground pipes that he does not want damaged.

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 and rear yard 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 neighborhood.
2. The requested floor area ratio and rear yard 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 neighborhood.
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 and rear 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 additions have been constructed in the neighborhood.
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

2016 SEP 26 AM 9 51

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 and rear yard variances (and acknowledgment of the pre-existing nonconforming total side yard) are APPROVED with the specific condition that no construction vehicles enter the site through 119 Parkway Drive South's 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.

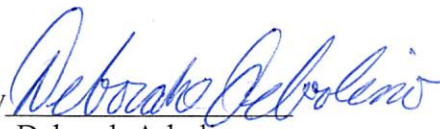
TOWN CLERKS OFFICE  
2016 SEP 26 AM 9 51  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested floor area ratio, and rear yard (and acknowledgment of the pre-existing nonconforming total side yard) variances was presented and moved by Mr. Feroldi, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye.

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

DATED: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

## DECISION

### CONFORMANCE TO PERFORMANCE STANDARDS APPROVED

To: Ann Marie Scuderi  
401 N. Middletown Road Bldg. 155  
Pearl River, New York 10965

ZBA #16-56  
Date: September 7, 2016  
Permit # 45369

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-56: Application of Urban Electric Power (Pfizer) 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 commercialize the rechargeable zinc-manganese dioxide battery for stationary electrical energy storage applications.. The building is located at 401 North Middletown Road, known as building 155, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 1; in the LI/LO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 7, 2016 at which time the Board made the determination hereinafter set forth.

Ann Marie Scuderi, Co-founder, Director of Operations, Sanjoy Bonerj, Executive Chairman, Professor at City College, Alexander Couzis, CEO and Co-Founder, and Professor at City College, and Anthony Cartolano, Vice President, and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Site plans.
2. Building plans for Building 155.
3. Plant Map.
4. Addendum A: Urban Electric Power safe, clean low-cost energy storage (2 pages); Cell Data Sheet; Cell Performance (2 pages); Module Data Sheet; She Data Sheet; Gridrack Data Sheet; UPS Data Sheet; Development Kit(2 pages).
5. Addendum B: Answer to #7 performance standards form.
6. Addendum C: answers questions 8, 9, & 10 performance standards form.
7. Addendum D: answers questions 13 & 15 performance standards form; Safety Data Sheet Sappi (4 pages)
8. Addendum E: answers questions 14 & 19 performance standards form; interior layout of building (2 Pages); Material safety data sheet for potassium hydroxide (6 pages); Material safety data sheets for Timrex synthetic graphite(9 pages); Material safety data sheet for Alloyed Zinc Powder (12 pages); Material safety data sheet for Carbopol 941 NF Polymer (10 pages).
9. Addendum F: answers question 19 from performance standards form.
10. Use Subject to Performance Standards Resume of Operations and Equipment dated May 4, 2016.
11. Fire Prevention Supplement.
12. A letter dated July 5, 2016 from Joseph J. Moran, P.E., Commissioner, which was superceded by a letter dated August 30, 2016 from Joseph J. Moran, P.E., Department of Environmental Management and Engineering, Town of Orangetown.
13. A memorandum dated May 20, 2016 from the Town of Orangetown Bureau of Fire Prevention from Douglas Sampath, Fire Inspector. (2 pages).
14. A letter dated June 20, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

TOWN OF ORANGETOWN  
2016 SEP 26 PM 9 51  
TOWN CLERK'S OFFICE

15. A letter dated May 27, 2016 from the Rockland County health Department signed by Scott McKane, P.E., Senior Public Health Engineer.
16. A letter dated June 30, 2016 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, 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; and Ms. Salomon, aye. Mr. Bosco was absent.

Sanjoy Bonerj, Executive Chairman, testified that Urban Electric is commercializing the rechargeable zinc manganese dioxide battery for stationary electrical energy storage application; that they are utilizing the same environmentally sustainable and abundant materials as primary alkaline batteries; that Urban Electric 's innovative battery technology offers high performance and the modular battery systems meet every stationary energy storage need; that that the zinc-manganese dioxide battery technology utilizes the same material as primary alkaline batteries, revolutionizing the chemistry into rechargeable systems with high energy density, 85% round trip efficiency and 5,000 charge and discharge cycles; that the zinc-manganese batteries use safe, non-toxic materials without lead, other heavy metals or flammable electrolytes and they are recycled using similar processes developed for primary alkaline batteries; that they were located in Harlem and recently outgrew that location; that they are moving with 20 employees and hope to add another 29 if this phase of the expansion pilot facility works over 2 to 3 years.

Anthony Cartolano, Vice President, testified that the batteries are scaled out at 8 cell module which can be configured in a 12V and 24V system; that performance data represents the 12V configuration; that the module is designed to scale for use in 19 inch server racks that positive and negative electrodes combine in cell electrolyte sealed up packaged into multiple units on a shelf system; that building 155 has 3 ½ horsepower fans in the back they have locked the switched for and there is an air conditioning system in place; and all of the materials are marked with stored locations on the plan.

The Board reviewed the Performance Standards and Fire Supplement forms.

Public Comment:

Steven Andeilorio, 422 Somerset Drive, Pearl River, testified that he is concerned about noxious fumes and explosions; that he grew up in Pearl River and he remembers many unidentified noxious fumes and doesn't want that again.

Dan Sullivan, Chairman, told Mr. Andeilorio that his mom lives in the same complex as him; that the applicant today has to conform with today's safety issues and that the conditions from Lederle cannot happen again because the regulations are stricter.

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 51  
TOWN CLERKS OFFICE

Emilio Vozzolo, 12 Hunderfund Lane, Pearl River, testified that he heard the applicant state that the air system is self-contained but he would like to know what safety precaution would be taken for the ambient area if the production system leaked any dust and if there is a secondary system in place.

The Board members made personal inspections of the premises the week before the meeting and found them to be properly posted and as generally described on the application.

A satisfactory statement in accordance with the provisions of Section 809 of the General Municipal Law of New York was received.

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

#### FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all 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 August 30, 2016 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated May 20, 2016 from Douglas A. Sampath, Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the report dated June 30, 2016 from Sonny Lin, P.E., Rockland County Highway Department; the report dated May 27, 2016 signed by Scott McKane, P.E., Senior Public Health Engineer, Rockland County Health Department; and the report dated June 20, 2016 signed by Douglas J. Schuetz, Acting Commissioner of Planning, 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 August 30, 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 May 20, 2016 from Douglas A. Sampath, Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); (3) the report dated June 30, 2016 from Sonny Lin, P.E., Rockland County Highway Department; (4) the report dated May 27, 2016 signed by Scott McKane, P.E., Senior Public Health Engineer, Rockland County Health Department; and (5) the report dated June 20, 2016 signed by Douglas J. Schuetz, Acting Commissioner of Planning, 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.

TOWN CLERKS OFFICE  
2016 SEP 26 AM 9 52  
TOWN OF ORANGETOWN



General Conditions:

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

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

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

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

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


TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 52  
TOWN CLERKS OFFICE

The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: (1) the report dated August 30, 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 May 20, 2016 from Douglas A. Sampath, Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); (3) the report dated June 30, 2016 from Sonny Lin, P.E., Rockland County Highway Department; (4) the report dated May 27, 2016 signed by Scott McKane, P.E., Senior Public Health Engineer, Rockland County Health Department; and (5) the report dated June 20, 2016 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; shall be complied with; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Salomon, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bosco 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: September 7, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2016 SEP 26 AM 9 52  
TOWN CLERKS OFFICE