

MINUTES
ZONING BOARD OF APPEALS
JULY 24, 2019

MEMBERS PRESENT: DAN SULLIVAN
THOMAS QUINN
MICHAEL BOSCO
JOAN SALOMON, (left early)

ABSENT: PATRICIA CASTELLI,
LEONARD FEROLDI, ALTERNATE

ALSO PRESENT: Ann Marie Ambrose, Official Stenographer
Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

PRESTIGE AUTO 40 West Washington Avenue Pearl River, NY 68.16 / 1 / 13; CC zone	SPECIAL PERMIT GRANTED ROCKLAND COUNTY OVER-RIDE	ZBA#19-66
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NEW ITEMS:

FLECK 31 Shadyside Avenue Upper Grandview, NY 71.05 / 1 / 36; R-22 zone (R-15 average density)	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#19-69
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MAYER 158 Leber Road Blauvelt, New York 70.06 / 1 / 44; R-15 zone	FLOOR AREA RATIO, FRONT YARD, TOTAL SIDE YARD AND ACCESSORY STRUCTURE DISTANCE TO PRINCIPAL BUILDING VARIANCES APPROVED	ZBA#19-70
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PREL PLAZA SIGNS 60 Dutch Hill Road Orangeburg, NY 74.10 / 1 / 70; CO zone	SIGN VARIANCES APPROVED ROCKLAND COUNTY PLANNING OVER-RIDE	ZBA#19-71
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TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

A CLEANER CITY
PERFORMANCE STANDARDS
16 Route 303
Tappan, NY
77.15/ 1 / 45; CS zone

PERFORMANCE STANDARDS
APPROVED

ZBA#19-72

JARA SUBDIVISION
52 Oak Tree Road
Tappan, NY
77.11 / 3 / 55; R-15 zone

STREET FRONTAGE VARIANCE
APPROVED FOR LOT B; ACCESSORY
STRUCTURE DISTANCE FROM PRINCIPAL
BUILDING AND FROM LOT LINE VARIANCES
APPROVED; ACCESSORY STRUCTURE HEIGHT
VARIANCE APPROVED WITH SPECIFIC
CONDITIONS COVENANT FOR ACCESSORY
STRUCTURE MUST BE FILED AT THE COUNTY
ROCKLAND COUNTY OVER-RIDE

ZBA#19-73

THE CLUB II
661 West Blue Hill Road
Pearl River, NY
73.10/ 1 / 5; OP & PAC zone

OP & PAC DISTRICT, NOTE 16 & 17
VARIANCES APPROVED
ROCKLAND COUNTY OVER-RIDE

ZBA#19-74

CORONEL
305 Laurel Road
Pearl River, NY
68.11 / 2 / 15; R-15 zone

SIDE YARD, TOTAL SIDE YARD,
REAR YARD AND BUILDING HEIGHT
VARIANCES APPROVED
UNDERSIZE LOT ACKNOWLEDGED

ZBA#19-75

EDELWEISS CONSTRUCTION
2 South Mary Francis Street
Tappan, NY
74.18 / 3 / 5; R-15 zone

FLOOR AREA RATIO, LOT AREA,
LOT WIDTH, SIDE YARD, REAR YARD,
AND BUILDING HEIGHT VARIANCES
APPROVED: UNDERSIZE LOT
ACKNOWLEDGED

ZBA#19-76

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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Orangetown Quick Stop Site Plan; 299 Route 303, Orangeburg, NY, 74. 11 / 2 / 48; CC zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

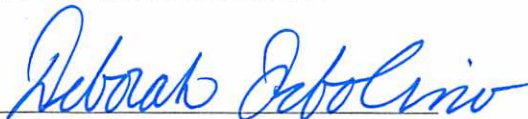
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

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

Dated: July 24, 2019

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

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DECISION

SECTION 3.11, COLUMN 2 VARIANCE APPROVED

To: Donald Brenner (Prestige Auto)
4 Independence Avenue
Tappan, New York 10983

ZBA #19-66
Date: July 10, 2019
Permit #48663

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-66: Application of Prestige Auto for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 3.11, Column 2 (Not a use permitted by right): applicant proposes to prepare building for use as a body repair shop-no paint booth. The premises are located at 40 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 13 in the CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 10, 2019 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Paul Dilorenzo, Owner of Prestige Auto appeared and testified.

The following documents were presented:

1. Architectural plans labeled "Auto-Body Shop 34 Washington Ave., Pearl River" dated 3/26/2019 with the latest revision date of 4/9/2019 signed and sealed by Eric Knute Osborne, Architect. (10 pages)
2. A letter dated July 3, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. Sign off sheets from the Rockland County Health Department and the Rockland County Highway Department.

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

Donald Brenner, Attorney, testified that they are not seeking a use variance; that they went to the Building Department to get a certificate of occupancy and they were told that the Building Inspector determined that a use variance was required; that this Industrial Park was built for Industrial uses; that the existing business has a certificate of occupancy for the last 14 years; that they are operating in #34 and would like to expand into #40, where the slate/marble business has previously been located; that their operation can exist in this location by the granting of a Special Permit under Section 3.11 CC District, Column 3 #1 refers to CS District Column 3 #8 and he would like a continuance to the next meeting to ask for the Special Permit.

Public Comment:

Mary Geday, 50 Railroad Avenue, Pearl River, testified that she lives opposite of the Auto Body and she is concerned about traffic and noise because there have been cars and trucks in the area with expanded mufflers and bigger wheels making lots of noise.

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New Publication for July 24, 2019 Hearing:

ZBA#19-66: Application of Prestige Auto: appeared before ZBA July 10, 2019 and the Board determined that a use variance was not required and that a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CC District, Section 3.11, Column 3 #1, refers to CS District Column 3 (Uses by Special Permit: # 8 Other retail/ services) applicant proposes to prepare building for use as a body repair shop-no paint booth. The premises are located at 40 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 13 in the CC zoning district.

The following documents were submitted for review at the July 24, 2019 hearing:

1. Architectural plans labeled "Auto-Body Shop 34 Washington Ave., Pearl River" dated 3/26/2019 with the latest revision date of 4/9/2019 signed and sealed by Eric Knute Osborne, Architect. (10 pages)
2. A letter from Donald Brenner, P.E., LLB, dated July 11, 2019 addressing the requirements for a variance of Chapter 43, Section 4.3 Special Permit Uses: Special Permit findings and additional requirements and conditions for certain uses:
 - 4.31(1) Transportation- All bus, train, or car accessibility is within walking distance of the existing building; water supplied by Suez; Waste Disposal -Private hauler; Fire Protection-Pearl River Fire Department; Police Department- Town of Orangetown; Sewer Service-Town of Orangetown;
 - 4.31(2) Will not increase traffic use, In fact will reduce traffic. Former tenant has a greater use;
 - 4.31(3) Use is in conformance with existing operation which has valid permits.
 - 4.31(4) Property values will not change:
Existing building -If the building was vacant, property values could decrease.
 - 4.31(5) Will not impair public health , safety, moral, convenience, comfort, property and other aspects of the General Welfare of the Town.
 - 4.31(6) Will comply
 - 4.31(7) N/A- Existing building. Only internal modifications.
 - 4.31(8) N/A- Existing building.
3. A small site plan of the area showing the two building spaces proposed to be used by the applicant.
4. A tax map.
5. A letter dated July 16, 2019 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated June 12, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.

Donald Brenner, Attorney, testified that he does not understand the letter from Rockland County Planning because they were given the same package that the Board has and the requirements for a Special Permit were gone over in order; that they are expanding an existing use that has a valid certificate of occupancy in building B and expanding that use to part of building H; that the business has been in this location for the past 15 years; that the hours of operation would be daily 8 AM to 6 PM Monday to Friday and Saturdays from 8 AM to noon; that the number of employees will increase by two; that the applicant is taking over a space that was occupied by a granite and slate supplier that had a much higher degree of traffic usage.

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Mike Bosco stated that he visited the site and spoke to other business owners in the area and they stated that there are no issues with the applicant or his business.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that based on the testimony heard by the Board, and the facts as presented in the application submissions and in the record, since application ZBA#19-66 seeks a special permit for a proposed auto body repair shop (with no paint booth) in a zoned residential lot, this application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (7); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

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. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the following Special Findings for the proposed Renewal of the Special Permit Use, as per Zoning Code Section 4.31, have been satisfactorily satisfied, for the following reasons:

1. The requested Special Permit for expanded space for Prestige Auto Body will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities. The applicant's hours of operation shall be 8:00 A.M. to 6:00 P.M. Monday through Friday and Saturdays from 8:00 A.M. to Noon and the anticipated number of employees is anticipated to increase by two.
2. The requested Special Permit for expanded space for Prestige Auto Body will not cause undue traffic congestion or create a traffic hazard. The expanded work space will not increase traffic, the previous user of the space sold granite and counter top materials and that use brought in more customers than the use of this space for prepping cars to be finished in the existing space occupied by Prestige Auto Body.

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3. The granting of the Special Permit will not create, at any point of determination set forth in Zoning Code Sections 4.16, 4.17 and 4.18 any more dangerous and objectionable elements, referred to in Section 4.11 than is characteristic of the uses expressly permitted as of right in the same Zoning District. One of the Board members inquired of other business owners in the immediate area about their opinion of the expanded space to be used by Prestige Auto Body and they were not concerned about any increase in traffic or parking problems.
4. The requested Special Permit for Prestige Auto will not adversely affect the character of or property values in the area. The applicant has operated his Auto Repair out of building H without incident since 2008 and the expansion into Building B will not change the character of the area or the property values. Vacant buildings decrease property values.
5. Will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town. The property has been used for the Auto Body Repair in building H for over 11 years and expanding the use into building B will conform with the existing operation in Building H which has a valid Certificate of Occupancy.

Mr. Sullivan made a motion to Over-ride the Rockland County Department of Planning letter dated July 16, 2019 for the following reasons: (1) the applicant has a valid certificate of occupancy for the Auto Body use in building H and the proposed expansion of that use for additional work space without a paint booth in building B does not require a more detailed description of the size and location of the lot and the design and location of the proposed facilities than the applicant submitted; (2) the applicant testified that the additional space would be used to prep the cars that will return to the space in building H to be painted, the additional use of space in building B does not require additional parking requirement for each use setbacks, floor area ratio or other measurements for the Board to access and determine that the proposed use will not conflict with the other uses on the site; (3) the Board determined that the application was complete; (4) the applicant provided a narrative that the Board deemed sufficient to determine a decision.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Special Permit is APPROVED with the following hours of operation shall be 8:00 A.M. to 6:00 P.M. Monday through Friday and Saturdays from 8:00 A.M. to Noon and the anticipated number of employees is anticipated to increase by two; 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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The foregoing resolution to approve the application for the requested Special Permit is APPROVED with the following hours of operation shall be 8:00 A.M. to 6:00 P.M. Monday through Friday and Saturdays from 8:00 A.M. to Noon and the anticipated number of employees is anticipated to increase by two; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 24, 2019

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-D.M.

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

TOWN CLERK'S OFFICE
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DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: William and Allison Fleck
31 Shadyside Avenue
Upper Grandview, New York 10964

ZBA #19-69
Date: July 24, 2019
Permit #48663

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-69: Application of William and Allison Fleck for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Average Density Subdivision refers to R-15 District, Group M, Section 3.12, Column 4(Floor Area Ratio: .20 permitted, .26 proposed) for an addition to an existing single-family residence. The property is located at 31 Shadyside Avenue, Upper Grandview, New York and are identified on the Orangetown Tax Map as Section 71.05, Block 1, Lot 36; in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Kier Levesque, Architect, appeared and testified.

The following documents were presented:

1. Plot Plan for Fleck dated April 9, 2019 with the latest revision date of May 23, 2019 signed and sealed by Paul Gdanski, PE, PLLC.
2. Architectural plans dated March 13, 2019 signed and sealed by Kier B. Levesque, R.A..
3. Planning Board decision #19-30 dated May 22, 2019.
4. A letter dated July 2, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated June 17, 2019 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated July 17, 2019 from the Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. An e-mail dated June 10, 2019 from Joseph Taylor MRP, Permit Engineer , New York State Department of Transportation.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on May 22, 2019 (set forth in PB#19-30 Fleck Plans Third Floor Addition Plans) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a “Negative Declarations” of “Neg Dec.”), the ZBA is bound by

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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 Mr. Quinn and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; and Mr. Bosco, aye. Ms. Salomon, Mr. Feroldi, and Ms. Castelli were absent.

Kier Levesque, Architect, testified that they are adding a third level to the structure and that it will be sprinklered; that there will be no ground disturbance; and the house will be 2,840 sq. ft. when the addition is done.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance 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 variance 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 a variance.
4. The requested floor area ratio variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar additions have been constructed in the area.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

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The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon, (left early) Ms. Castelli, and Mr. Feroldi were 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: July 24, 2019

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-D.M.

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

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DECISION

FLOOR AREA RATIO, FRONT YARD, TOTAL SIDE YARD AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED

To: Diane and Robert Mayer
158 Leber Road
Blauvelt, New York 10964

ZBA #19-70
Date: July 24, 2019
Permit # 48918

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-70: Application of Robert and Diane Mayer for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 3.12, Columns 4 (Floor Area Ratio: .15 permitted, .213 proposed), 8 (Front Yard: 50' required, 27' proposed) and 10 (Total Side Yard: 80' required, 64' proposed) and from Section 5.153 (Accessory Structure distance to principal building: 15' required, 6' existing) for an addition to an existing single-family residence. The premises are located at 158 Leber Road, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.06, Block 1, Lot 44 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Robert and Diane Mayer appeared and testified.

The following documents were presented:

1. Architectural plans dated July 30, 2017 with the latest revision date of June 9, 2019 signed and sealed by Barbara Hess, Architect. (3 pages)

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon, (left early) Mr. Feroldi, and Ms. Castelli were absent.

Diane Mayer testified that they are proposing to add a 12' x 22' addition to the family room and kitchen; that the accessory structure has always existed in its present location and they have been before he board previously and it was not an issue; that the structure was built by a previous owner.

Robert Mayer testified that they purchased the house in 1984; that it is an odd shaped lot and the accessory structure is used for storage.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that 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 and accessory structure distance to principal structure variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is oddly shaped and the accessory structure has existed in its present location since the applicants purchased the property in 1983.
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. The lot is oddly shaped and the accessory structure has existed in its present location since the applicants purchased the property in 1983.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested 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. The lot is oddly shaped and the accessory structure has existed in its present location since the applicants purchased the property in 1983.
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
2019 AUG -6 P 2:03
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 floor area ratio, front yard, and total side yard and accessory structure distance 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
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, front yard, total side yard and accessory structure distance variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon, (left early) Ms. Castelli and Mr. Feroldi were 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: July 24, 2019

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-Dom

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

TOWN OF ORANGETOWN
2019 AUG -6 P 2:03
TOWN CLERK'S OFFICE

DECISION

TOTAL SIGN AREA VARIANCE APPROVED

To: Kim Thomas Sippel (Prel Plaza Signs)
24 Jolliffe Lane
Congers, New York 10920

ZBA #19-71
Date: July 24, 2019
Permit # 48774

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-71: Application of Prel Plaza for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, CO District, Section 3.11, Column 5 General Accessory Uses, Paragraph 7 (Total Sign Area not to exceed 6 sq. ft. for building: 445 sq. ft. proposed and existing) for signs at Prel Plaza, located at 60 Dutch Hill Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.10, Block 1, Lot 70; in the CO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Kim Thomas Sippel, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Prel Plaza Proposed Signage" dated April 12, 2019 with a scope of work letter dated April 12, 2019 signed and sealed by Kim Thomas Sippel, Architect; Site Plan Leo Kornblath Associates; 7 pages of pictures of the existing signs; 9 pages of the proposed signs; 2 pages of comparison of existing and proposed dated April 17, 218; and the deed. (page of 13 was replaced and corrected at hearing)
2. A letter dated July 12, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated June 18, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated June 19, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, and based upon the testimony heard by this Board, and the facts as presented in the application, submissions and in the record, since this application seeks area or bulk variances for construction or expansion of a primary or accessory or appurtenant non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, 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); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Quinn, aye. Mr. Feroldi and Ms. Castelli were absent.

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Kim Sippel, Architect, testified that they are trying to clean up the old building and the miss-mash of signs and make the building more modern looking and the signs to be cohesive; that there is 337 sq. ft. of signage existing and they are proposing to add an additional 108 sq. ft. and permitted is only 6 sq. ft..

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. Salomon and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested total sign area variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. In this particular case the building has always had more than 6 sq. ft. of signage; the new interpretation is that 6 sq. ft. is permitted for the entire building and previously it was interpreted that 6 sq. ft. per use was permitted; presently 337 sq. ft. of signage exists and the applicant is asking for an additional 108 sq. ft.; which is reasonable considering the number of businesses that exist in the building. The new cohesive signage and siding on the building will enhance the neighborhood.
2. The requested total sign area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The location of the building on the lot and the amount of signage on the side of the building that fronts along the highway is minimal and will not interfere with the efficient flow of traffic along the County Highway.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.

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4. The requested total sign area variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. In this particular case the building has always had more than 6 sq. ft. of signage; the new interpretation is that 6 sq. ft. is permitted for the entire building and previously it was interpreted that 6 sq. ft. per use was permitted; presently 337 sq. ft. of signage exists and the applicant is asking for an additional 108 sq. ft.; which is reasonable considering the number of businesses that exist in the building. The new cohesive signage and siding on the building will enhance 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.

Mr. Bosco made a motion to override comments #1 & #2 of the Rockland County Department of Planning Letter dated July 12, 2019 because the Board does not agree with the determination that only 6 sq. ft. of signage is permitted for the entire building and the location of the building on the lot and the amount of signage on the side of the building that fronts along the county highway is minimal and will not interfere with the efficient flow of traffic along the County Highway; which motion was seconded by Ms. Salomon and carried as follows: Mr. Quinn, aye, Mr. Bosco, aye; Mr. Sullivan, aye; and Ms. Salomon, aye.

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

TOWN OF ORANGETOWN
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Prel Plaza Signs

ZBA#19-71

Permit #48774

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(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 total sign area variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 24, 2019

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 CLERK'S OFFICE
2019 AUG -6 P 2:04
TOWN OF ORANGETOWN

DECISION

CONFORMANCE STANDARDS ACCEPTED

To: EJM Tappan (A Cleaner City)
808 Bloomfield Avenue
West Caldwell, New Jersey 07006

ZBA #19-72
Date: July 24, 2019
Permit # 47607

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-72: Application of A Cleaner City requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.12 Performance Standards review for a new dry cleaning business. The premises are located at 16 Route 303, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.15, Block 1, Lot 45 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Estelle Lee and Tom Lee, Owners, Donald Nemcik, Attorney, and Alan Spielvogel, Director Technical Services National Dry Cleaners Association, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "A Cleaner City Tappan" signed and sealed by Se Hwan Kim, Architect (21 pages).
2. Safety Data Sheets (11 pages).
3. Multimatic Multi Star machine for environmentally friendly solvents (2 pages).
4. Resume of Operations (15 pages).
5. A memorandum dated July 19, 2019 from Eamon Reilly, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
6. A memorandum dated June 11, 2019 from Michael Weber, Industrial Treatment Coordinator, Department of Environmental Management and Engineering, Town of Orangetown with one page attachment.
7. A memorandum dated June 17, 2019 from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Department of Environmental Management and Engineering, Town of Orangetown with one page attachment.
8. A memorandum dated June 11, 2019 from Bruce Peters, Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.
9. A memorandum dated June 11, 2019 from Michael Bettmann, Chief Fire Safety Inspector, Town of Orangetown.
10. A letter dated July 2, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
11. A letter dated June 18, 2019 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
12. A letter dated December 31, 2018 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.

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13. A letter dated February 4, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
14. A letter dated April 10, 2019 from the New York State Department of Transportation signed by Joseph Taylor, MRP, Permit Engineer.
15. A letter dated March 15, 2019 addressed to the Fire Official from Ron Velli, Multimatic LLC. With attachments (8 pages).
16. Sent in after the hearing revised pages of the resume of operations as requested (3 pages).

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

On advice of Denise Sullivan, 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) (25); which does not require SEQRA environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon left early. Ms. Castelli and Mr. Feroldi were absent.

Donald Nemcik, Attorney testified that the applicant is attempting to occupy the old Key Bank property and establish a Dry Cleaning business; that Estelle Lee will be in charge of this location; and she can testify to her expertise.

Estelle Lee testified that that after college she decided to come back to the family business; that she grew up in the business; that she is very familiar with the Multimatic machines; that all of their stores use these machines and she is very good at repairing them; that they have 16 stores; that she has met with Mike Bettmann and will meet all of his expectations; that there is no Perk chemicals in their process; that all of the machines are enclosed and there are no emissions; that all waste products are disposed into containers according to law; that there is ample parking on site; that there will be two or three employees and plus herself and her Dad.

Alan Spielvogel, Director Technical Services National Dry Cleaning Association, testified that there are no emissions into the ambient air; that the hydro carbon process is not hazardous; that the solvent itself is carbon and that there is a fire suppression mechanism, nitrogen canister on the machine; that the with the sudden use of oxygen the nitrogen ejects into the machine and there is a safe guard 147 to 148 degree F and no chance of the machine starting a fire because the machines work in a vacuum; that the building is freestanding and no sprinkler system is required; and the machines do not vent outside; that the machines have a spill containment pan and a hazmat permit is not required for this machine.

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The Board reviewed the Performance Standards and Fire Supplement forms.

Public Comment:

John Cho, owner of the repair station next door, testified that the building always has water in the basement and the drainage is bad on the property.

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 reports dated June 11, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated June 11, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); memo dated June 17, 2019, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the Memorandum dated July 19, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 11, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); Rockland County Department of Planning dated July 2, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; New York State Department of Transportation dated April 10, 2019 signed by Joseph Taylor, MRP, Permit Engineer; 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., B.F.P., and all other departments having jurisdiction of the premises.

TOWN CLERK'S OFFICE
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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 that the Applicant: (1) Submit a revised Resume of Operations pages 4, 5, & 13 and comply with the comments contained in: (2) memo dated June 11, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated June 11, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated June 17, 2019, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandum dated July 19, 2019, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated June 11, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); Rockland County Planning letter dated July 2, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; New York State Department of Transportation letter dated April 10, 2019 signed by Joseph Taylor, MRP, Permit Engineer; 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, Performance Standards Conformance, 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, Performance Standards Conformance, or Special Permit by the Board is limited to the specific variance, Performance Standards Conformance, 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 Performance Standards Conformance, variances, or Special Permit being requested.

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

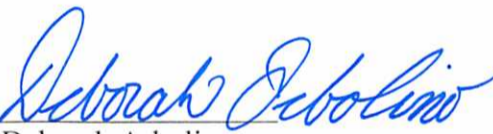
TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions that the applicant: (1) Submit a revised Resume of Operations pages 4, 5, & 13 and comply with the comments contained in: (2) memo dated June 11, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated June 11, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated June 17, 2019, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandum dated July 19, 2019, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated June 11, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); Rockland County Planning letter dated July 2, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; New York State Department of Transportation letter dated April 10, 2019 signed by Joseph Taylor, MRP, Permit Engineer; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon, (left early) Mr. Feroldi and Ms. Castelli were 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: July 24, 2019

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 D.M.

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

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

DECISION

STREET FRONTAGE FOR LOT B, ACCESSORY STRUCTURE DISTANCE FROM PROPERTY LINE AND DISTANCE TO PRINCIPAL STRUCTURE AND ACCESSORY STRUCTURE HEIGHT VARIANCES APPROVED WITH CONDITIONS

To: Loretta Jara
52 Oak Tree Road
Tappan, New York 10983

ZBA #19-73
Date: July 24, 2019
Permit # N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-73: Application of Jara Subdivision for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 7 (Street Frontage: 75' required, 30.16' provided for lot B) and from Section 5.227 (Accessory Structure location from property line: 5' required, 3.75' proposed to new property line: Accessory Structure Height cannot exceed 15' and 18' 4" exists to the median height of the existing building) and from Sections 5.152 and 5.153 (Accessory Structure Height 18' 4" existing, Distance 14'; and Accessory Structure distance from primary structure: 15' required, 14' existing) for a proposed two lot residential subdivision. The premises are located at 52 Oak Tree Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 3, Lot 55 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Jo Machinist, Architect, Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Subdivision Plat labeled "52 Oak Tree Road" dated 06/17/2019 signed and sealed by Brian A. Brooker, P.E., and John J. Bezuyen, L.S. (1 page)
2. Plans labeled "Private Residence Subdivision": signed and sealed by Jo T. Machinist, Architect.
3. Planning Board Decision #19-34 dated May 22, 2019.
4. A letter dated July 16, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated June 26, 2019 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A sign off from the Rockland County Highway Department no comments at this time dated July 8, 2019 signed by Dyan Rajashingham.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and,

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on May 22, 2019 (PB # 19-34) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a “Negative Declarations” of “Neg Dec.”), the ZBA is bound by the Planning Board’s Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Feroldi and Ms. Castelli were absent.

Donald Brenner, attorney testified that they are attempting to subdivide the property into two lots; that they will provide the calculations for the slope deductions and they will file a covenant regarding the accessory building and removing whatever needs to be removed to make it an accessory building and that it will not be rented out.

Public Comment:

Brian Clark, 12 Washington Lane, Tappan, asked what size the new building would be.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that 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 street frontage for lot B and Accessory Structure distance variances for the distance from the property line and the distance from the primary structure variances and a height variance for the accessory structure will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The second dwelling unit will become an accessory structure by removal of the kitchen and filing a covenant prior to the filing of the subdivision map.
2. The requested street frontage for lot B and Accessory Structure distance variances for the distance from the property line and the distance from the primary structure variances and a height variance for the accessory structure will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The second dwelling unit will become an accessory structure by removal of the kitchen and filing a covenant prior to the filing of the subdivision map.

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3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested street frontage for lot B and Accessory Structure distance variances for the distance from the property line and the distance from the primary structure variances and a height variance for the accessory structure, 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 second dwelling unit will become an accessory structure by removal of the kitchen and filing a covenant prior to the filing of the subdivision map.
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 street frontage for lot B and Accessory Structure distance variances for the distance from the property line and the distance from the primary structure variances and a height variance for the accessory structure are APPROVED with the following SPECIFIC CONDITIONS: (1) the kitchen shall be removed from the accessory structure; (2) the Subdivision Plat from Brooker Engineering must be updated to reflect that the second two-story dwelling has removed the existing kitchen and been changed to an accessory structure: revised plans shall be submitted; (3) a covenant shall be submitted to the Town Attorney's Office for review and approval for the two story dwelling unit conversion to an accessory structure and that the structure shall not be rented or used as a dwelling unit; (4) the applicant must address the July 16, 2019 letter from Rockland County Planning, and the July 17, 2019 letter from the Rockland County Health Center for Environmental Health; 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.

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(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 street frontage for lot B and Accessory Structure distance variances for the distance from the property line and the distance from the primary structure variances and a height variance for the accessory structure are APPROVED with the following SPECIFIC CONDITIONS: (1) the kitchen shall be removed from the accessory structure; (2) the Subdivision Plat from Brooker Engineering must be updated to reflect that the second two-story dwelling has removed the existing kitchen and been changed to an accessory structure: revised plans shall be submitted; (3) a covenant shall be submitted to the Town Attorney's Office for review and approval for the two story dwelling unit conversion to an accessory structure and that the structure shall not be rented or used as a dwelling unit; (4) the applicant must address the July 16, 2019 letter from Rockland County Planning, and the July 17, 2019 letter from the Rockland County Health Center for Environmental Health; variance is APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were absent.

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Jara Subdivision
ZBA#19-73
Page 5 of 5

Permit #N.A.

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

DATED: July 24, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN
2019 AUG -6 P 2:04
TOWN CLERK'S OFFICE

DECISION

OP & PAC DISTRICT, NOTE 16 & 17 VARIANCES APPROVED

To: Donald Brenner (The Club II)
4 Independence Avenue
Tappan, New York 10983

ZBA #19-74
Date: July 24, 2019
Permit #48572

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-74: Application of The Club II for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, OP & PAC District, Note 16 (Deed acres of lot in wetlands: 25.87 acres + 1,126,897 sq. ft. : 1,126,897-75,153 (50% area in wetlands per plan_ 1,053,744 sq. ft. or 24.19 acres) Note 17: (Units per acre: 95 units permitted, 104 units proposed) for phase II development of senior rental apartments. The premises are located at 661 West Blue Hill Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 73.10, Block 1, Lot 5 in the OP & PAC zoning districts.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney and Diego Villareale, P.E., Jeff Diromaldo, Architect and Mark Pantirer, Esq., Principal, appeared and testified.

The following documents were presented:

1. Architectural plan labeled "Building 2 Building Section (Typical of All Building)" Pearl River-Phase II signed and sealed by Matthew J. Koenig, Architect. (1 page)
2. Plans labeled " Existing Conditions Plan The Club at Pearl River II" signed and sealed by Diego Villareale, P.E. dated 3/6/2019 with the latest revision date of 6/20/ 2019 (1 page).
3. "Site Plan Approval Drawings The Club at Pearl River II" dated 3/6/2019 with the latest revision date of 6/20/2019 signed and sealed by Diego Villareale, P.E.
4. Plans labeled " Layout Plan The Club at Pearl River II" signed and sealed by Diego Villareale, P.E. dated 2/14/2019 with the latest revision date of 6/20/ 2019 (1 page).
5. Planning board Decision #19-26 dated May 22, 2019.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on May 22, 2019 (ZBA#19-26) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Mr. Sullivan, aye; and Mr. Bosco, aye. Ms. Castelli and Mr. Feroldi were absent.

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Donald Brenner, Attorney, testified that they went back to the Town Board and amended the previous PAC approval because the planning board sent them back because they determined that the changes were substantial and since then they received preliminary approval from the Planning Board and a neg. dec.; that the Town Board passed the resolution and there will be no disturbance to the wetlands; that they will enter through Blue Hill Road for all four buildings; that they need to build 104 units because all of the financing is based on 104 units; that there is a waiting list to get into the apartments and that rentals are needed for 55 and over; and went over the five criteria for the granting of the variances.

Diego Villareale, Engineer, testified that the site is 26 acres and the topography slopes down to the southern portion of the property and the four buildings are designed parallel to each other and they follow the topography of the land without encroaching on the wetlands; that of the 26 acres only ten acres are being disturbed and the 16 acres are being left undisturbed; and that the Club I was a larger lot of 40 acres and had 160 units.

Jeff Diromaldo, Architect, testified that the buildings were designed to address the slopes in the property that 85% of the units are two bedrooms and there are six units on the first level; and that there will be no disturbance to the wetlands.

Mark Pantirer, Esq., Principal of the Club, read financial statements from the lender into the record showing that the loan is based on the construction of 104 units.

Public Comment:

Anita Alpuchie, 8010 Schindler Drive, asked how the residents would enter and exit the property.

Bill Casey, 3104 Schindler Drive, testified that he has been a resident of the Town for 34 years and he is grateful that he could sell his home and stay in the area because of the Club I.

Tom Quinn asked if the numbers were real and the applicant answered yes; and he continued that the economic picture is complete; that the development is not going anywhere near the wetlands and that no DEC or Army Corp approvals are needed.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by Mr. Bosco 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 OP & PAC District Notes 16 & 17 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed layout for phase II of the development is respectful of the wetlands, not touching them and the additional nine units will not change the character of neighborhood (95 permitted and 104 proposed).
2. The requested OP & PAC District Notes 16 & 17 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed layout for phase II of the development is respectful of the wetlands, not touching them and the additional nine units will not change the character of neighborhood (95 permitted and 104 proposed).
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested OP & PAC District Notes 16 & 17 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 proposed layout for phase II of the development is respectful of the wetlands, not touching them and the additional nine units will not change the character of neighborhood (95 permitted and 104 proposed).
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.

Mr. Sullivan made a motion to over-ride #1 & #2 of the Rockland County Department of Planning letter dated July 22, 2019 because the wetlands are not being touched or encroached upon in order to build the requested 104 units; and the slope analysis has been performed and is sufficient; which motion was seconded by Mr. Quinn and carried unanimously.

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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 OP & PAC District Notes 16 & 17 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.

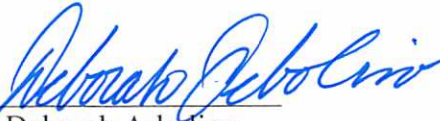
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The foregoing resolution to approve the application for the requested OP & PAC District Notes 16 & 17 variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, aye. Ms. Castelli and Mr. Feroldi were 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: July 24, 2019

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

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DECISION

**SIDE YARD, TOTAL SIDE YARD, REAR YARD AND BUILDING HEIGHT
VARIANCES APPROVED: UNDERSIZED LOT ACKNOWLEDGED**

To: Max Coronel
305 Laurel Road
Pearl River, New York 10965

ZBA #19-75
Date: July 24, 2019
Permit #48791

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-75: Application of Max Coronel for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 15' required, 9.1' and 9.8' proposed, 5' to the deck), 10 (Total Side Yard: 30' required, 14.1' proposed), 11 (Rear Yard: 35' required, 33.2' proposed) and 12 (Building Height: 20' permitted, 21' 10" proposed) ENC(existing non-conforming: lot width, street frontage, front yard, side yard and lot area)

(Section 5.21(c) applies Undersized lot) for an addition to an existing single-family residence. The premises are located at 305 Laurel Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.11, Block 2, Lot 15 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Max Coronel and George Lopez, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 03/08/2019 labeled "Proposed Addition and Alteration for Mr. Max Coronel" signed and sealed by Jorge L Lopez, Architect.
2. Survey dated January 10, 2019 signed and sealed by Anthony R. Celentano, P.L.S.
3. One e-mail in support of the application from an abutting property owner.

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; and Mr. Sullivan, aye. Ms. Salomon (left early) Mr. Feroldi and Ms. Castelli were absent.

Max Coronel testified that he purchased the house last October and he lives there with his wife and two children and that the house is very small.

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George Lopez, Architect, testified that they are proposing to add a second story to the existing house; that they are building on the existing footprint and that they second story will add 998 sq. ft. to the house

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested side yard, total side yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and the pre-existing non-conforming conditions of the lot. The proposed addition is not changing the footprint of the building and is adding a second story to an existing single-family residence.
2. The requested side yard, total side yard, rear 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 Board acknowledged the undersized lot and the pre-existing non-conforming conditions of the lot. The proposed addition is not changing the footprint of the building and is adding a second story to an existing single-family residence.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.

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4. The requested side yard, total side yard, rear 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 Board acknowledged the undersized lot and the pre-existing non-conforming conditions of the lot. The proposed addition is not changing the footprint of the building and is adding a second story to an existing single-family residence.
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, total side yard, rear 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.

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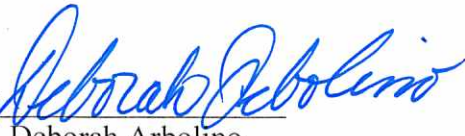
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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 side yard, total side yard, rear yard and building height variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon (left early) Ms. Castelli and Mr. Feroldi were 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: July 24, 2019

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 CLERK'S OFFICE
2019 AUG -6 P 2:05
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO, LOT AREA, LOT WIDTH, SIDE YARD, REAR YARD,
BUILDING HEIGHT VARIANCES APPROVED: SECTION 5.21 (c) & (e)
UNDERSIZED LOT ACKNOWLEDGED**

To: Edelweiss Construction (2 S. Mary Francis)
225 Valley Road
Valley Cottage, New York 10989

ZBA #19-76
Date: July 24, 2019
Permit #48863

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-76: Application of Edelweiss Construction 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, .43 proposed), 5 (Lot Area: 15,000 sq. ft. required, 6,577 sq. ft. existing), 6 (Lot Width: 100' required, 73' and 93' existing), 9 (Side Yard: 15' required, 7.4' proposed), 11 (Rear Yard: 35' required, 13' proposed), and 12 (Building Height: 20' permitted, 28.5' proposed) (Section 5.21 (c) & (e) Undersized lot applies) for a new single-family residence. The premises are located at 2 South Mary Francis Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 5 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 24, 2019 at which time the Board made the determination hereinafter set forth.

Danny Roggensinger and Dan Roggensinger Jr. appeared and testified.

The following documents were presented:

1. "Plot plan for Lot 74.18-3-5" dated 04/14/2019 signed and sealed by Jay A. Greenwell, PLS.
2. Architectural plans dated 7/1/2019 labeled "New Residence Tax Lot 74.18-3-5" signed and sealed by Joshua C. Jakob, Architect. (2 pages)
3. A letter dated July 2, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated June 13, 2019 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
5. A letter dated June 18, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated July 17, 2019 from the County of Rockland Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. Eight color pictures of the site and existing house.

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

On advice of Denise Sullivan, 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) (11), (12), (16) and/or (17); which does not require SEQRA

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environmental review. The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon (left early), Mr. Feroldi and Ms. Castelli were absent.

Danny Roggensinger testified that they would like to remove the existing house that is extremely damaged and has been used for squatters and kids parties and is dangerous and build a new house on the site; that they have spoken other neighbors and the neighbor behind them on South Mary Francis is happy because they are increasing that side yard and rear yard setbacks; that they want to enter the property from Lowe Lane.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, lot area, lot width, side yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersize lot and its present derelict condition and although the variances are substantial the improvement to the lot with the new proposed house will be a benefit to the neighborhood.
2. The requested floor area ratio, lot area, lot width, side yard, rear 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 Board acknowledged the undersize lot and its present derelict condition and although the variances are substantial the improvement to the lot with the new proposed house will be a benefit to the neighborhood.

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3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance. The Board acknowledged the undersize lot and its present derelict condition and although the variances are substantial the improvement to the lot with the new proposed house will be a benefit to the neighborhood.
4. The requested floor area ratio, lot area, lot width, side yard, rear 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.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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

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(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 floor area ratio, lot area, lot width, side yard, rear yard and building height variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye. Ms. Salomon (left early) Ms. Castelli and Mr. Feroldi were 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: July 24, 2019

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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