

MINUTES
ZONING BOARD OF APPEALS
SEPTEMBER 4, 2019

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

ABSENT: 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:

SEVENTH DAY ADVENTIST
CHURCH SIGN
210 North Middletown Road
Pearl River, NY
69.09 / 2 / 52; R-15 zone

CONTINUED UNTIL
OCTOBER 2, 2019

ZBA#19-47

NEW ITEMS:

ROCKLAND CEMETERY
241 Kings Highway
Sparkill, NY
74.16 / 1 / 9; R-40 zone

SPECIAL PERMIT/
VARIANCE APPROVED

ZBA#19-77

O'HARA EXTENSION OF TIME
77 Lark Street
Pearl River, New York
69.14 / 2 / 27; R-15 zone

EXTENSION OF TIME
GRANTED FOR TWO YEARS

ZBA#19-78

URRUTTIA -OME
16 Maple Avenue
Orangeburg, NY
74.14 / 3 / 9; RG zone

§5.153, §5.227 VARIANCES
APPROVED

ZBA#19-79

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PILGRIM BUILDING CORP.
16-18 Franklin Avenue
Pearl River, NY
68.20 / 1 / 21; CS zone

OFF STREET PARKING
VARIANCES APPROVED,
SECTION 9.34 NON-CONFORMING USE
ONE TIME EXPANSION APPROVED

ZBA#19-80

GREATER HUDSON BANK
SIGN LOCATION
170 Erie Street
Blauvelt, NY
70.14 / 4 / 10; CC zone

POSTPONED

ZBA#19-81

PREMIER BRANDS
7 Corporate Drive
Orangeburg, NY
73.20 / 1 / 33; LIO zone

PERFORMANCE STANDARDS
APPROVED WITH SPECIFIC CONDITIONS

ZBA#19-82

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: Alatsas-DWA LLC Subdivision Plan; 15 & 19 Mercury Drive, Pearl River, NY, 68.14 / 2 / 49 & 50; R-15 zone; 125 East Central Avenue, Pearl River, NY, 68.16 / 6 / 44; CS zone; West Lewis Avenue Minor Subdivision Plan, 38 West Lewis Avenue, Pearl River, NY 68.12 / 1 / 44; RG zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:30 P.M.

Dated: September 4, 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

**SPECIAL PERMIT/ VARIANCE FOR MORE THAN 10 ACRES FOR CEMETERY
USE APPROVED**

To: Donald Brenner (Rockland Cemetery)
4 Independence Avenue
Tappan, New York 10983

ZBA #19-77
Date: September 4, 2019
Permit #48988

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-77: Application of Rockland Cemetery for a Special Permit from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Section 3.11 refers to R-80 District, Column 3, # 10 (Uses by Special Permit: Cemeteries on plots of 10 acres or less with 14.90 acres proposed) to add to the existing cemetery. The property is located at 241 Kings Highway, Sparkill, New York and are identified on the Orangetown Tax Map as Section 74.16, Block 1, Lot 9; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 4, 2019 at which time the Board made the determination hereinafter set forth.

Joseph A. Scarmato, Esquire (Attorney for Rockland Cemetery), Donald Brenner, Attorney (for Art Student League), appeared and testified.

The following documents were presented:

1. Subdivision Plat for Arts Student League dated December 3, 2009 filed as map 8082 Bk 128 Page 26.
2. A letter dated August 6, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated August 9, 2019 from the Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A sign off sheet from Rockland County Highway Department signed by Dyan Rajasingham dated 7/23/2019.
5. A letter dated August 21, 2019 from Lewis A. Polishook, Director, Division of Cemeteries, State of New York Department of State.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, based upon the testimony heard by this Board, and the facts as presented in the application submissions and in the record, since application ZBA#19-77 seeks a Special Permit for a not-for-profit cemetery in a zoned residential lot, and adjacent to an existing cemetery, 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); 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; Mr. Quinn, aye; and Ms. Castelli, aye.

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Donald Brenner, Attorney representing the Art Student League, testified that that this property was donated to the Art Student League many years ago, that they are a non-profit and are unable to keep up with the responsibilities of the property and would like to sell the land to the Cemetery; that presently they are selling the land and there are no plans in place for anything more than a land purchase; that the Building Department told them that they would need a special permit and variance because the property is over 10 acres and that is why they are before the Board.

Joseph Scarmato, Attorney for the Rockland Cemetery, testified that the New York State Cemetery Board has approved the purchase of the property for \$450,000.00 subject to several conditions(as detailed in the August 21, 2019 letter from Lewis A. Polishook, Director, NYS Dept. of State, Cemetery Division to Rockland Cemetery) and including: (1) the approval of the Attorney General of the sale of the property; (2) the removal or modification of the deed restriction on the property;(3) that any required local zoning approval, including consideration of whether the purchase might affect cemetery use of the existing cemetery property; and (4) receipt of additional documentation confirming the cemetery's board's approval of the purchase. He testified that the Board of Trustees of Rockland Cemetery would like the third condition of the letter to be part of the decision of this Board, to ensure that the purchase of this property does not affect the existing cemetery. He also testified that Rockland Cemetery would comply with the provisions of NYS Not for Profit Corporation Law §1506(c) and NYS Rear Property Law §451, and to obtain permission of the Rockland County Legislature.

Public Comment:

Marjorie Douglas, 275 Kings Highway, Sparkill, testified that her property adjoins the Art Student League property and that she is pleased that the cemetery is purchasing the property and is here to speak in support of the application.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s)/ Special Permit 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 applicant is requesting a Special Permit pursuant to Chapter 43, §4.31, for "cemeteries on plot of 10 acres or less, adjacent to an established cemetery or place of worship". This lot is 14.90 acres and is adjacent to the existing Rockland Cemetery.

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2. This parcel is adjacent to the existing Rockland Cemetery which has existed since before the Zoning Code was adopted. The requested Special Permit for the proposed use as described by the applicant will be appropriately located with respect to transportation, water supply, waste disposal. Fire and police protection and other public facilities.
3. The requested Special Permit will not cause undue traffic congestion or create a traffic hazard.
4. The requested Special Permit will not create at any point of determination set forth in §§ 4.16, 4.17, and 4.18 any more dangerous and objectionable elements referred to in § 4.11 than is characteristic of the uses expressly permitted as of right in the same district.
5. The requested Special Permit will not adversely affect the character of or the property values in the area and will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.
6. The proposed use by Special Permit will comply with all other regulations applicable to such use. For all special permit uses a proposed plan showing the size and location of the lot, design and drives, screening and streets within 1,000 feet; and a detailed description thereof must be submitted in accordance with rules prescribed by the Board.
7. Before any Special Permit is granted, the applicant must secure approval of the proposed drainage structure by the Town Engineer or the consulting engineers for the Town of Orangetown; and as otherwise set forth in Chapter 43,(Section 4.31).
8. The applicant has stated that no improvements are proposed by the applicant on the existing Rockland Cemetery parcel (bearing tax ID# 74.12-1-14) as part of this application, and that no request is being made for a Special Permit for that parcel. Consequently, the ZBA has not reviewed nor is the ZBA granting or approving a Special Permit use for that adjacent parcel.
9. The granting of the special permit for the subject parcel (bearing tax ID#74.16-1-9) in the R-40 zoning district for use as a cemetery will not affect the adjoining property of Rockland Cemetery (parcel bearing tax ID#74.12-1-14) (in the R-40 zoning district) nor it's use as a cemetery which has existed since 1847.
10. The applicant shall be responsible to obtain al other necessary approvals for the use of the property as a cemetery including those conditions set forth in the August 21, 2019 letter of Lewis A. Polishook, Director of the NYS Department of State, Division of Cemeteries, and the provisions of NYS Not for Profit Corporation Law §1506 (c) and NYS Real Property Law §451, and the obligation to obtain permission of the Rockland County Legislature.

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; 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 and to over-ride the Rockland County Department of Planning Letter dated August 6, 2019 because presently the property is not being developed; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: September 4, 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 OF ORANGETOWN
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DECISION

EXTENSION OF TIME TO IMPLEMENT VARIANCES APPROVED IN ZBA#17-78 GRANTED FOR TWO YEARS

To: Noreen O'Hara
77 Lark Street
Pearl River, New York 10964

ZBA #19-78
Date: September 4, 2019
Permit #46703

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-78: Application of Noreen O'Hara for an extension of time to implement variances that were granted in ZBA#17-78: for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 10.78' proposed) and 12 (Building Height: 10.8' permitted, 15.67' proposed) for an addition to an existing single-family residence. The premises are located at 77 Lark Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.14, Block 2, Lot 27 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 4, 2019 at which time the Board made the determination hereinafter set forth.

Noreen O'Hara appeared and testified.

The following documents were presented:

1. Zoning board of Appeals Decision # 17-78 dated October 18, 2017.
2. Architectural plans dated March 5, 2013 by Robert Hoene, Architect, (4 pages).
3. A letter in support of the application signed by seven neighbors.
4. A site plan with the shed shown on it.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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 Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Noreen O'Hara testified that she mistakenly believed that the variance was good for two years and shortly after they got the approval for the addition her dad got sick; that they were taking care of him and put the work on hold; that they came in to pick up the permit in July and found out that the variances lapsed; that they would like to ask for an extension of time in order to get the permit; that they did install a 10' x 10' shed on the property that is five foot from the property line and they have a hold harmless filed with the Town Highway Department; and she would appreciate a long extension since her architect retired and she might need to get another architect to sign off on these plans.

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Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. No significant change in circumstances has occurred since the prior approved variance was granted that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect construction to begin in the near future.
3. The Zoning Board of Appeals acknowledges that the applicants have installed a 10' x 10' shed in the corner of their side yard and have filed a hold harmless with the Town Highway Department.

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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 extension of time to implement variances that were granted in ZBA#17-78 dated October 18, 2017 is APPROVED and the 10' x 10' shed in the corner of the property is acknowledged; 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 extension of time (for two years from the date of the stamped decision) to implement variances that were granted in ZBA#17-78 dated October 18, 2017 is APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: September 4, 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 OF ORANGETOWN
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DECISION

**ACCESSORY STRUCTURE LOCATION AND DISTANCE TO LOT LINE
VARIANCES APPROVED**

To: Karen and Louis Urruttia-Ome
16 Maple Avenue
Orangeburg, New York 10964

ZBA #19-79
Date: September 4, 2019
Permit #49042

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 19-79: Application of Karen and Louis Urruttia-Orme for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 5.227 (Accessory structure set back to lot line: 5' required, 6" existing) and from Section 5.153 (Accessory Structure location: Not permitted in front yard and it is located in front yard, 6" from lot line) (Applicant has two front yards) for two existing sheds at an existing single-family residence located at 16 Maple Avenue, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.14, Block 3, Lot 9; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 4, 2019 at which time the Board made the determination hereinafter set forth.

Karen Urruttia-Ome appeared and testified.

The following documents were presented:

1. Plot plan based on survey by Robert R. Rahnefeld, PLS dated March 2, 1990 with the two sheds drawn on it.
2. Two sketches of the existing sheds one 9' x 15' and one 8' x 10'.
3. Nine pictures of the existing sheds.
4. Two letters in support of the applicant keeping the sheds.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Ms. Castelli 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 Ms. Castelli and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Karen Urruttia-Ome submitted several pictures of the existing sheds and testified that they have existed for years; that she found out that they needed variances when she applied for solar panels for the house; that she has two front yards and an undersized lot; that they have kids and one

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shed holds all of the kids' stuff like bikes, kayaks and fish tanks; that the other shed is holding tools and that the sheds do not impede on egress from the house or yard.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested accessory structure in front yard and accessory structure set back and distance to primary structure variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and has two front yards; the house is small with no storage areas.
2. The requested accessory structure in front yard and accessory structure set back and distance to primary structure variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is undersized and has two front yards; the house is small and has no storage areas.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested accessory structure in front yard and accessory structure set back and distance to primary structure variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. . The lot is undersized and has two front yards; the house is small with no storage areas.

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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 accessory structure in front yard and accessory structure set back and distance to primary structure 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 accessory structure in front yard and accessory structure set back and distance to primary structure variances are 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; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: September 4, 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
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TOWN CLERK'S OFFICE

DECISION

SECTION 3.11, REFER TO R-80, COLUMN 6, OFF STREET PARKING VARIANCE APPROVED; SECTION 9.34 EXPANSION OF NON-CONFORMING USE VARIANCE APPROVED

To: Claudio Sigcha (Pilgrim Building)
16 Franklin Avenue
Pearl River, New York 10964

ZBA #19-20
Date: September 4, 2019
Permit #48846

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-80: Application of Pilgrim Building Corp. for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, CS District, Section 3.11, refers to R-80 District, Column 6 (Off-Street Parking, #1 residences requires 13 spaces; 0 spaces exist) and from Section 9.34 (Expansion of anon-conforming use: two apartments on the first floor were merged to make one large apartment and the second floor remains as it existed and the third floor was converted into a 477 sq. ft. apartment for a total of four apartments. The premises are located at 16-18 Franklin Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 21 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 4, 2019 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Claudio Sigcha, owner, Cristiana Radulescu-Scortea, Architect, appeared and testified.

The following documents were presented:

1. Copy of survey map labeled James Bredin & Harold Lloyd dated April 6, 1984.
2. Architectural plans labeled "Claudio Sigcha Property" signed and sealed by Cristiana Radulescu-Scortea, Architect (A-1 thru A-6).
3. Plan not signed or sealed labeled SK-1 "On Property Parking Analysis" dated 06/01/2019 by CDS Architect, PC.
4. A letter dated August 5, 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated August 9, 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 from Dyan Rajasingham, Engineer III.
7. A letter dated July 23, 2019 from 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 Ms. Castelli and carried unanimously.

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that based upon the testimony heard by this Board, and the facts as presented in the aforementioned application, submissions and in the records, since this application seeks variances for: reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in Section 617.4 of this Part: or replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in Section 617.4 of this Part; AND is exempt from environmental review under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (2), or (18); 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; Mr. Quinn, aye; and Ms. Castelli, aye.

Donald Brenner, Attorney, testified that they are using 100% of the existing building; that there is no parking; that the tenants park on the street or in the municipal lots until the winter and then they make their own parking arrangements; that the building is 2,865 sq. ft. and they are proposing an attic apartment that will be 477 sq. ft.; that the first floor has a large apartment that the owner and his wife with their three children live in; that the second floor has two apartments that have two people living in each apartment and the attic space will be occupied by one person; that they were referred for a parking variance; and no one in Pearl River has parking; and for the expansion of the attic.

Public Comment:

Brian McGilbride, owner of 48 and 50 Ridge Street submitted pictures of the area in the winter showing that there is no parking; and testified that no one is ever given a ticket for parking on Ridge Street and adding another apartment will add to the existing parking problems in the area.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Off- Street Parking variance and Extension of Non-Conforming Use variance will not produce an undesirable change in the character of the neighborhood or a detriment to

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nearby properties. The building has existed with four apartments and zero parking for many years; previously there were two apartments on the first floor and they have been merged into one apartment for the owners family, although there is an increase of 477 sq. ft. for an apartment in the attic, four apartments existed previous to the attic being converted and four apartments would exist if the applicant is granted the extension of non-conforming expansion.

2. The requested off-street parking variance and extension of non-conforming use variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The building has existed with four apartments and zero parking for many years; previously there were two apartments on the first floor and they have been merged into one apartment for the owners family, although there is an increase of 477 sq. ft. for an apartment in the attic, four apartments existed previous to the attic being converted and four apartments would exist if the applicant is granted the extension of non-conforming expansion.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested off-street parking variance and the non-conforming use 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. The building has existed with four apartments and zero parking for many years; previously there were two apartments on the first floor and they have been merged into one apartment for the owners family, although there is an increase of 477 sq. ft. for an apartment in the attic, four apartments existed previous to the attic being converted and four apartments would exist if the applicant is granted the extension of non-conforming expansion.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested off-street parking variance and the expansion of non-conforming use 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.

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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 off-street parking variance and expansion of non-conforming use variance is APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: September 4, 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

CONFORMANCE TO TOWN PERFORMANCE STANDARDS ACCEPTED

To: Glen Livi (Premier Brands)
1032 Washington Avenue
Old Tappan, New Jersey 07675

ZBA #19-82
Date: September 4, 2019
Permit # 48920

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#19-82: Application of Premier Brands 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 a business listed with the FDA as a Packager/ Relabeler business. The premises are located at 7 Corporate Drive, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 73.20, Block 1, Lot 33 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 4, 2019 at which time the Board made the determination hereinafter set forth.

Glenn Livi, Vice President of Manufacturing, Pierre Mathelier, P.E., and John Lee, Director of Engineering, appeared and testified.

The following documents were presented:

1. Interior lay out plans labeled "Premier Proposed layout of 7 Corporate Drive" by Pierre A. Mahelier, dated 3/22/2019 revised 6/26/2019 (1 page).
2. Survey labeled "Premier Brands of America, Inc. dated June 7, 2019 signed and sealed by John R. Atzl, L.S.
3. Safety Data Sheets (46 pages).
4. Plastimach Corp FAB8-3 Rotary Blister Sealing Machine specs.
5. Starview MR Series Manal Rotary Blister Sealing Machines Standard MR2 manual rotary blister sealing machine specs (2 pages)
6. Kabar 10000FS RF Blister specs.
7. Carrera 1000 PC Technical Data Sheet (3 pages).
8. Bosch Doboy Inc. Linium 301 Rotary Head Horizontal Wrapper specs (2 pages).
9. Batch Feeder model # SB350W8-3 SM (1 page).Doboy Microtronic High Speed Horizontal Wrapper specs (1 page).
10. Eco-Series Labellers (2 pages).
11. CMV Machine Specifications (9 pages).
12. Resume of Operations (15 pages).
13. Memorandums dated July 19, 2019 and September 4, 2019 from Eamon Reilly, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
14. Memorandums dated June 19, 2019 and September 4, 2019 from Michael Weber, Industrial Treatment Coordinator, Department of Environmental Management and Engineering, Town of Orangetown with one page attachment.
15. Memorandum dated July 19, 2019 and September 4, 2019 from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Department of Environmental Management and Engineering, Town of Orangetown.

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16. A memorandum dated July 18, 2019 from Bruce Peters, Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.
17. A memorandum dated August 22, 2019 from Michael Bettmann, Chief Fire Safety Inspector, Town of Orangetown.
18. A letter dated August 14 2019 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
19. A letter dated August 9, 2019 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
20. Thirteen pages of the Premier Brands of America Inc. introduction to the company packet.

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 seeks a Performance Standards Review for a proposed FDA approved Packaging/Relabler business in a zoned LIO lot, the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (34); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

Glenn Livi testified that the company has been in business for 47 years and they have their headquarters in White Plains; that they are the leading the manufacturer of private label and branded foot care and wellness products; that they supply products to Walmart, Target, Top Care, CareOne, Family Dollar and many more, that they are registered with the FDA as a repackager/relabeler of OTC and medical devices; that they have light manufacturing and repackaging facilities in Mount Vernon and Hudson New York and Orangeburg would be a great addition; that they are planning to relocate some equipment from Mount Vernon to Orangeburg and to install new manufacturing and packaging line in Orangeburg; that they will employ roughly 100 hourly people and 25 salaried people; that they are a green company and they are privately owned and the company has a family feel to it.

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The Board reviewed the Performance Standards and Fire Supplement forms.

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 September 4, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated July 18, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); memo dated September 4, 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 September 4, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated August 22, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); Rockland County Department of Planning dated August 9, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; the other documents submitted to the Board, and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., B.F.P., and all other departments having jurisdiction of the premises.

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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 September 4, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated July 18, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated September 4, 2019, from Dylan Hofsiss, 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 September 4, 2019, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated August 22, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); Rockland County Planning letter dated August 9, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; 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.

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The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions that the applicant: (1) memo dated September 4, 2019 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated July 18, 2019, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated September 4, 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 September 4, 2019, 2019 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated August 22, 2019 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); Rockland County Planning letter dated August 9, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye, Ms. Salomon, aye, and Ms. Castelli, aye.

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

DATED: September 4, 2019

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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