

MINUTES
ZONING BOARD OF APPEALS
March 4, 2020

MEMBERS PRESENT: DAN SULLIVAN
MICHAEL BOSCO
THOMAS QUINN
PATRICIA CASTELLI
ROB BONOMOLO, JR.
BILLY VALENTINE

ABSENT: NONE

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

POSTPONED ITEM:

T. F. NOONAN'S AMENDMENT TO ZBA#07-118 16 E. Central Avenue Pear River, NY 68.20 / 1 / 13; CS zone	AMENDMENT TO ZBA#07-118 APPROVED	ZBA#20-17
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NEW ITEMS:

FLECK 31 Shadyside Avenue Upper Grandview, New York 71.05 / 1 / 36; R-22 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#20-18
111 WASHINGTON Spring LLC 111 Washington Spring Road Palisades, NY 78.18 / 2 / 10; R-22 zone	GRAVEL DRIVEWAY VARIANCE APPROVED	ZBA#20-19

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CATALDO
16 Virginia Street
Tappan, NY
77.08 / 2 / 53; RG zone

BUILDING HEIGHT
VARIANCE APPROVED
UNDERSIZE LOT ACKNOWLEDGED

ZBA#20-20

KIBRIA SUBDIVISION
571 Route 303
Blauvelt, NY
70.15 / 1 / 43; R-15 zone

280-a EXCEPTION GRANTED

ZBA#20-21

SHEA
63 Meadows Street
Pearl River, NY
69.09 / 3 / 27; r-15 zone

FLOOR AREA RATIO, FRONT
YARD, AND BUILDING HEIGHT
VARIANCES APPROVED
UNDERSIZED LOT ACKNOWLEDGED

ZBA#20-22

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Sorce Assumma & Shankey Funeral Home Site Plan, 34 North Summit Street, Pearl River, NY, 68.19 / 2 / 15; RG zone; Lane Resubdivision Plan (Lot Merger), 125 Park Avenue, Palisades, NY, 77.20 / 2 / 76,77 & 78; R-15 zone; SMK Greene Subdivision Plan, 318 Western Highway, Tappan, NY, 74.18 / 2 / 34; R-15 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 8:15 P.M.

Dated: March 4, 2020

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 7, #3 VARIANCE APPROVED

To: Donald Brenner (T.F. Noonan's)
4 Independence Avenue
Tappan, New York 10983

ZBA #20-17
Date: March 4, 2020
Permit #49361

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-17: Application of T.F. Noonan's for an amendment to ZBA#07-118: Section 3.11, Column 7 #3: All retail sales and service establishments shall be within completely enclosed buildings: applicant is asking to add an outdoor bar to the existing outdoor fenced-in dining area. The site is located at 16 East Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.20, Block 1, Lot 13 in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2020 at which time the Board made the determination hereinafter set forth.

Larry Vergine, owner, and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Existing Bar/ Tavern Expansion TF Noonan's" dated July 9, 2019 with the latest revision date of 7/9/2019 signed and sealed by Karl Ackermann, Architect.
2. A drawing of the rear of the building and outside patio area prepared by Larry Vergine dated 9/26/2019.
3. Three copies of pictures of the outdoor patio area.

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 based on 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 this application is 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; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Donald Brenner, Attorney, testified that the applicant applied for this outside area when the state restricted smoking inside the building; that they got approval for the outdoor area with the stipulation that all food and drink come from inside the restaurant; that they went to the Town Clerk and got a permit for the outside bar and then they got a permit from NY State to serve liquor outside and they were remiss in not coming back to this Board; that they recently added

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additional inside space to the establishment and are getting ready to close that permit when the Building Department stated that they needed to get permission for the existing outside bar and with apologies they are asking permission to keep the outside seasonal bar with its seven seats; and they would also appreciate a finding of fact that they do not have parking for the additional outdoor seats at the bar.

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 Section 3.11, Column 7, #3 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The outdoor dining area has existed without any negative incidents for some time and the addition of the outdoor bar in the patio area will allow for better service for the outdoor dining guests.
2. The Board acknowledged that on May 1, 2019 in Zoning Board Decision #19-42 additional square footage was added to the restaurant and 25 parking spaces were required for that additional space and zero (0) parking spaces were provided. The additional seats at the bar and outside area would also require parking which does not exist but should not stop a business in the area from expanding. Almost every business in the downtown area has the hardship of no parking spaces and the applicant does not have to return to the ZBA for any addition parking variances due to the outdoor dining/bar area.
3. The requested Section 3.11, Column 7, #3 variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The outdoor dining area has existed without any negative incidents for some time and the addition of the outdoor bar in the patio area will allow for better service for the outdoor dining guests.
4. 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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5. The requested Section 3.11, Column 7, #3 variance, is not 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 outdoor dining area has existed without any negative incidents for some time and the addition of the outdoor bar in the patio area will allow for better service for the outdoor dining guests.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 3.11, Column 7, #3 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.

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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 Section 3.11, Column 7, #3 variance is 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; Mr. Bonomolo, 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: March 4, 2020

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

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DECISION

FLOOR AREA RATIO VARIANCE APPROVED

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

ZBA #20-18
Date: March 4, 2020
Permit #49665

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-18: Application of William and Allison Fleck for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District built under average density: R-15 District, Group M, Section 3.12, Column 4 (Floor Area Ratio: 20% permitted, 26% approved in ZBA#19-69, dated July 24, 2019, 27% proposed) for an addition of an interior balcony over the existing living space at an existing single-family residence. The premises are located at 31 Shadyside Avenue, Upper Grandview (Nyack post office) and is 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, March 4, 2020 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 with the latest revision date of December 27, 2019 signed and sealed by Kier B. Levesque, R.A..
3. Planning Board decision #19-30 dated May 22, 2019.
4. A letter dated February 10, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated February 27, 2020 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A no comment letter dated January 23, 2020 from the Rockland County Highway Department signed by Dyan Rajasingham, P.E..

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

On advice of 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; Mr. Bonomolo aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

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Kier Levesque, Architect, testified that while they are adding a third level to the structure; the client decided that they would like to have an open balcony area and that it will add an additional 168 sq. ft. of floor area ratio without any change to exterior of the building.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The addition of the 168 sq. ft. of interior balcony area is not visible from the outside of the building.
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. The addition of the 168 sq. ft. of interior balcony area is not visible from the outside of the building.
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 additional floor area ratio variance is not substantial. The addition of the 168 sq. ft. of interior balcony area is not visible from the outside of the building.

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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 Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Sullivan, aye.

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

DATED: 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

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DECISION

SECTION 6.332 GRAVEL DRIVEWAY VARIANCE APPROVED

To: Margaret Fowler (111 Washington Spring LLC)
500 North Broadway
Upper Nyack., New York 10960

ZBA #20-19
Date: March 4, 2020
Permit #49505

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-19: Application of 111 Washington Spring LLC for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, Section 6.332 (Driveways shall be installed with at least three inches of binder mix with a top wearing course of 1 ½ inches of fine mix asphalt: gravel is proposed) for a driveway at an existing single-family residence. The premises are located at 111 Washington Spring Road, Palisades, New York and is identified on the Orangetown Tax Map as Section 78.18, Block 2, Lot 10 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2020 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Site Plan Section 78.18, Block 2, Lot 10 #111 Washington Spring Road" dated 12/12/2018 with the latest revision date of 11/25/2019 signed and sealed by Thomas W. Skrable, P.E.
2. Three computer generated pictures of the lot showing the garage and parking area and driveway.

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; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Margaret Fowler, Architect, testified that they have been working on a renovation of the property and that they would like to keep the existing gravel driveway and add two additional parking spaces in front of the garage; that all the houses in the area have gravel driveways and it is better for the environment.

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Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 6.332 gravel driveway variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Many properties in the area have gravel driveways.
2. The requested Section 6.332 gravel driveway variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Many properties in the area have gravel driveways.
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 Section 6.332 gravel driveway variance is not 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. Many properties in the area have gravel driveways.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 6.332 gravel driveway 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 Section 6.332 gravel driveway variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: March 4, 2020

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

BUILDING HEIGHT VARIANCE APPROVED

To: Alyssa Cataldo
18 Virginia Street
Tappan, New York 10983

ZBA #20-20
Date: March 4, 2020
Permit #49721

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-20: Application of Alyssa Cataldo for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 5.21 Undersize lot applies, Section 3.12, Column 12 (Building Height: 20' required, 24' proposed) for a new single-family residence. The premises are located at 16 Virginia Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 2, Lot 53 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2020 at which time the Board made the determination hereinafter set forth.

Alyssa Cataldo and Tammy Cataldo appeared and testified.

The following documents were presented:

1. Plans labeled "Site Plan for Cataldo" dated December 16, 2019 with the latest revision date of January 23, 2020 signed and sealed by Robert E. Sorace, PLS.
2. Plans labeled "New Residence for Lane and Cataldo" dated December 17, 2019 signed and sealed by Harry J. Goldstein, Architect.

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

On advice of 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; Mr. Bonomolo aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Alyssa Cataldo testified that her grandmother always wanted to build a house on this lot and that she is fulfilling her grandmothers dream; and that the house is a two-story colonial style house.

Tammy Cataldo testified that the house requires a height variance because the lot is undersized and undersized lots are limited to a 20' building height and this house height is 24.4'; that the style of the house is in keeping with the character of the neighborhood; that there are several houses that are higher than this house and many of the houses on the block are two-story houses; that the surveyor made a mistake on the site plan when he did the bulk table, that the required side yard is 10' and the required total side yard is 20'; that the lot is 60' x 140' and the only variance it needs is a height variance.

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Public Comment:

Sharon Forman, 11 Polhemus Street, testified that she lives directly behind the lot and has lived in her house for 18 years; that she supports a house being built on the lot; but the lot is already much higher than her lot and the request for 24.4' is to the medium height of the building and it is going to be much higher to the peak and the grading of the property makes it worse; that she would ask that the house be moved forward two more feet to make it 65' from the rear yard instead of the proposed 63'; that the ten foot side yard on each side of the house is small and the plan says that the total side yard should be 30'; that the house wouldn't seem so high if they regraded the property first; and she would like to know what the plan for back yard is.

Mike Bosco stated that the house is level on the property because the driveway goes directly into the garage; that they are not changing the level of the rear yard because the house is being built into 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 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 building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is undersized and the proposed building height of 24.4 feet is not higher than other houses in the area.
2. The requested building height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is undersized and the proposed building height of 24.4 feet is not higher than other houses 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 building height 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 lot is undersized and the proposed building height of 24.4 feet is not higher than other houses 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 building height 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 building height variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: March 4, 2020

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

NEW YORK STATE TOWN LAW SECTION 280-a EXCEPTION APPROVED

To: Donald Brenner (Kibria Subdivision)
4 Independence Avenue
Tappan, New York 10983

ZBA #20-21
Date: March 4, 2020
Permit # N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-21: Application of Kibria Subdivision for an exception pursuant to New York State Town Law, Section 280-a (Relation of structure to streets or highways) for a proposed two-lot single-family residential subdivision. The property is located at 571 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.15, Block 1, Lot 43 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 4, 2020 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Lot Separation Minor Subdivision for Jamal and Seema Kibria" dated February 7, 2018 with the latest revision date of October 4, 2019 signed and sealed by Robert E. Sorace, PLS.
2. A letter dated February 21, 2020 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated February 21, 2020 from the New York State Department of Transportation signed by Mohammed S. Islam, Assistant Engineer.
4. A letter dated February 27, 2020 from the Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. A no comment fax from Dyan Rajasingham, Rockland County Highway dated 01/29/2020.

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on September 12, 2018 (set forth in PB#18-34 Kibria Subdivision Plan) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declaration" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

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Donald Brenner testified that the applicant was before the Planning Board and received a preliminary approval and a Neg Dec in September 2018; that they need a variance for a 280-a because the proposed lot is land locked; that the driveway is not 20' wide; the easement is 20' wide; and that they are not looking for a zone change; that they have had an environmental review done by the Planning Board; that the lots are oversized for the R-15 zone; and that the project will be reviewed again when they propose a house for the lot.

Public Comment:

Francine Oldenburger, 314 Greenbush Road, Blauvelt, testified that she is a member of the environmental committee for Orangetown, that she is speaking tonight as an individual; that the map legend should be corrected lot 43 and 44 are incorrect; that a full environmental assessment should be done on this property because of its proximity to the Sparkill Creek; she questioned why open space was not being offered; and why so many trees have to be removed because she can hear everything in her house, including street noise and the train, anymore even with the windows closed.

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 New York State Town Law 280-a exception will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The application has already received a preliminary approval for and a neg. dec. for SEQRA; and the lots are still going to be larger than the required 15,000 sq. ft..
2. The requested New York State Town Law 280-a exception will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The application has already received a preliminary approval for and a neg. dec. for SEQRA; and the lots are still going to be larger than the required 15,000 sq. ft..

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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 New York State Town Law 280-a exception. The application has already received a preliminary approval for and a neg. dec. for SEQRA; and the lots are still going to be larger than the required 15,000 sq. ft..
4. The requested New York State Town Law 280-a exception is not substantial, and 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 New York State Law 280-a exception.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested New York State Town Law 290-a exception 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.

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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 New York State Town Law 280-a exception is APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: March 4, 2020

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
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MGMT. and ENGINEERING
FILE, ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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DECISION

**FLOOR AREA RATIO, FRONT YARD AND BUILDING HEIGHT VARIANCES
APPROVED UNDERSIZE LOT ACKNOWLEDGED**

To: Karl Ackermann (Shea)
159 E. Central Avenue
Pearl River, New York 10965

ZBA #20-22
Date: March 4, 2020
Permit #49660

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-22: Application of Michael and Christina Shea for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.21 Undersized lot applies, Columns 4 (Floor Area Ratio: 20% permitted, 20.74% proposed), 8 (Front Yard: 30' required, 23.5' proposed) and 12 (Building Height: 20' permitted, 25.3' proposed) for an addition to an existing single-family residence. The premises are located at 63 Meadows Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 3, 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, March 4, 2020 at which time the Board made the determination hereinafter set forth.

Karl Ackermann, Architect and Michael and Christina Shea appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Addition /Alteration for Mr. & Mrs. Shea Residence 63 Meadows Street P.R." dated December 14, 2019 with the latest revision date of January 16, 2020 signed and sealed by Karl E. Ackermann, AIA.
2. Survey prepared and signed and sealed by James Gerard Scheuermann, PLS, dated December 16, 2019.

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; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Karl Ackermann, Architect, testified that the house is a 1 ½ story house that has very tight ceilings; that they are proposing to take the top floor off and construct a full second story; that they are also proposing a front porch to add character to the house; that the lot is slightly

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undersized and that is why they need the height variance for five feet; that the house is currently a small three bedroom house and they are proposing a four bedroom house when they are done; that there are several other houses in the area with similar changes done to them, 86 Pearce, and two others on Douglas.

Public Comment:

No public comment

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard and 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 similar additions that have been constructed in the area.
2. The requested floor area ratio, front 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 similar additions that have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard 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 similar additions that 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, front yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested floor area ratio, front yard and building height variances are APPROVED; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: March 4, 2020

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
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