

MINUTES  
ZONING BOARD OF APPEALS  
June 6, 2018

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

ABSENT: MICHAEL BOSCO

ALSO PRESENT: Ann Marie Ambrose, Official Stenographer  
Deborah Arbolino, Administrative Assistant  
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:

KIRSCH  
49 Kings Highway  
Tappan, NY  
77.11 / 1 / 74; R-15 zone

LOT AREA, FRONT YARD, ZBA#18-16  
REAR YARD AND BUILDING HEIGHT  
VARIANCES

NEW ITEMS:

GEORGE ALATSAS  
15 Greene Street  
Tappan, NY  
77.06 / 2 / 30; R-15 zone

FLOOR AREA RATIO, ZBA#18-30  
LOT WIDTH, STREET FRONTAGE,  
REAR YARD, §5.21 (c) UNDERSIZED LOT  
SIDE YARD & TOTAL SIDE YARD AND  
§5.21 (e) BUILDING HEIGHT VARIANCES  
APPROVED

ROHLAND SUBDIVISION  
EXTENSION OF TIME  
TO IMPLEMENT VARIANCES  
401-407 Western Highway  
Tappan, NY  
74.18 / 3 / 29, 30 & 31; LO & LI zone

6 MO. EXTENSION OF TIME ZBA#18-31  
TO IMPLEMENT VARIANCES  
GRANTED

TOWN CLERK'S OFFICE  
2018 JUN 12 P 3 28  
TOWN OF TAPPAN, NY

PELLEGRINO POOL  
82 Hamilton Avenue  
Tappan, NY  
74.17/ 2 / 22; R-15 zone

REAR YARD VARIANCE  
APPROVED AS MODIFIED  
TO 13'

ZBA#18-32

JARA  
9 Heather Lane  
Tappan, NY  
74.14 / 2 / 18; R-15 zone

FLOOR AREA RATIO  
VARIANCE APPROVED

ZBA#18-33

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: Bul Kwang Zen Center Site Plan, 104 Route 303; 77.07 / 1 / 2; LO zone; The Learning Experience Site Plan, 1 Stevens Way, Orangeburg, NY; 74.15/ 1/ 21 7 22; LI zoning district; Dean Awning Conditional use permit plan, 529 Route 303, Orangeburg, NY , 70.19/1/40; LIO district; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

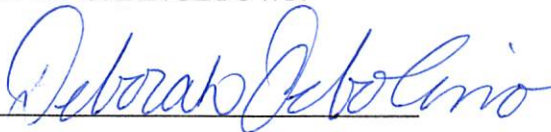
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 8:45 P.M.

Dated: June 6, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

DISTRIBUTION:  
APPLICANT  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
TOWN BOARD MEMBERS  
BUILDING INSPECTOR (Individual Decisions)  
Rockland County Planning

TOWN CLERK'S OFFICE  
2018 JUN 12 P 4: 28  
TOWN OF ORANGETOWN

DECISION

**LOT AREA, FRONT YARD, REAR YARD, AND BUILDING HEIGHT VARIANCES APPROVED**

To: Maria Kirsch  
49 Kings Highway  
Tappan, New York 10983

ZBA #18-16  
Date: June 6, 2018  
Permit #47137

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-16: Application of Maria Kirsch for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Columns 5 (Lot Area: 15,000 sq. ft. required, 9,279 sq. ft. existing), 8 (Front Yard: 30' required, 6' existing), 11 (Rear Yard: 35' required, 34' existing) and 12 (Building Height: 6' permitted 20' existing) for a new canopy road connecting the garage to the existing single-family residence. The premises are located at 49 Kings Highway, Tappan New York and are identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 74; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 6, 2018 at which time the Board made the determination hereinafter set forth.

Maria Kirsch appeared and testified.

The following documents were presented:

1. Architectural plan labeled "Alterations to 49 Kings Highway, Tappan NY" dated 01/15/2018 with the last revision date of 02/19/2018 signed and sealed by Robert Hoene, RA. With site plan information taken from survey prepared by Peter E. Roffino, dated 10/31/90.
2. A letter dated May 21, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated May 23, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated May 10, 2018 from the Rockland County Drainage Agency signed by Vincent Altieri, Executive Director.
5. A letter dated May 1, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
6. A letter dated May 3, 2018 from the Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent

TOWN CLERK'S OFFICE  
JUN 12 2018 2:08 PM  
TOWN OF ORANGETOWN

Maria Kirsch testified that she is before the Board to connect the existing artist studio to the house by adding a canopy over the existing deck to connect to the garage/studio; and that the variances being requested are for existing conditions.

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 lot area, front yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot area front yard, rear yard and building height variances are not changing, they are existing conditions that are being recognized because the applicant is attaching the detached garage to the house with an open air breezeway roof.
2. The requested lot area, front yard, rear yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot area front yard, rear yard and building height variances are not changing, they are existing conditions that are being recognized because the applicant is attaching the detached garage to the house with an open air breezeway roof.
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 lot area, front yard, rear yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The lot area front yard, rear yard and building height variances are not changing, they are existing conditions that are being recognized because the applicant is attaching the detached garage to the house with an open air breezeway roof.

PLANNING BOARD  
2018 JUN 12 P 4:28  
COMMUNITY DEVELOPMENT

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 lot area, front yard, rear yard and building height variances are **APPROVED** and to override modification #3 of the letter dated May 21, 2018 from the County of Rockland Department of Planning because there is no construction taking place that would affect the 100 year flood plain; 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.


2018 JUN 12 P 2:28  
TOWN OF ORANGETOWN  
PLANNING & ZONING DEPARTMENT

The foregoing resolution to approve the application for the requested lot area, front yard, rear yard and building height variances are APPROVED and to override modification #3 of the letter dated May 21, 2018 from the County of Rockland Department of Planning because there is no construction taking place that would affect the 100 year flood plain; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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

DATED: June 6, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2018 JUN 12 P 4: 28  
TOWN OF ORANGETOWN

DECISION

**LOT AREA, LOT WIDTH, STREET FRONTAGE, ACKNOWLEDGED PRE-EXISTING NON-CONFORMING CONDITIONS; REAR YARD, FLOOR AREA RATIO, § 5.21 (c) UNDERSIZED LOT: SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED**

To: George Alatsas  
17 Bluefields Lane  
Blauvelt, New York 10913

ZBA #18-30  
Date: June 6, 2018  
Permit # 47504

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-30: Application of George Alatsas for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .37 proposed), 5 ( Lot Area: 15,000 sq. ft. required, 4991 sq. ft. existing), 6 ( Lot Width: 100' required, 50' existing), 7 (Street Frontage: 75' required, 50 existing), 11(Rear Yard: 35' required, 33.3' proposed) and Section 5.21(c) (Undersized lot For Group M, Side Yard: 15' required, 10' proposed: Total Side Yard: 30' required, 20' proposed) and from Section 5.21(e) (Undersized Lot Building Height: 20' permitted, 26' proposed) for a new single-family house. The premises are located at 15 Greene Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 2, and Lot 30; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 6, 2018 at which time the Board made the determination hereinafter set forth.

George Alatsas and Robert Hoene, Architect, appeared and testified.

The following documents were presented:

1. Plot plan for "Proposed Dwelling for George Alatsas" dated of 03/29/2018 signed and sealed by Robert E. Sorace, PLS.
2. Architectural plans labeled " George Alatsas New Residence" dated 03/01/2018 with the latest revision date of 04/04/2018 signed and sealed by Robert Hoene, Architect.
3. Four Zoning Board of Appeals Decisions for variances similar to his request for Lee Construction: Greene Street (ZBA#01-107), Leone- 14 Greene Street (ZBA#04-64), Caltagione 20 Greene Street (ZBA#11-54), and JWL Construction: Greene Street & Summit (ZBA#98-112).
4. A picture of the house to the west of the lot.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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TOWN OF ORANGETOWN



George Alatsas testified that they would like to build a house on the existing undersized lot that would conform to the other houses in the neighborhood; that he would like to submit examples of other variances that were granted in the immediate area for houses built on the existing non-conforming lots; that the proposed house is 18,000 sq. ft.; that the proposed house is not large and he would offer to plant on the side of the neighbor that is concerned about the side yard distance and they will see if they can adjust the placement of the windows on the upper floor to satisfy the objecting neighbor on Summit.

Bob Hoene, Architect, testified that they must appear before the Architectural Review Board for approval after this; that they could look at the window placement in the bedroom and try to accommodate the concerns of Mr. Coffee and they could also continue the arborvitae along 19 Greene Street side to address concerns about the 10' side yard.

Public Comment:

Gina Fennell, 19 Greene Street, Tappan, testified that she is concerned about the ten foot side yard because she is abutting the property and she has a 10.5 side yard on that side of her property and a 13.5' side yard on the other side and this house will be close to her house.

Bill Coffey, 146 Summit Avenue, Tappan, testified that he is concerned with the left elevation because the two high windows will be looking directly into his backyard; that the lots behind are too small to build on and he has a high fence but does not want to give up his privacy.

Tom Quinn pointed out that there is a building lot in between this lot and Mr. Coffey's lot and that a house could be built on it.

Joe Caltagione testified that he lives at 20 Greene Street, Tappan that he thinks that the house should be built within the regulation and codes; that variances should not be granted.

Dan Sullivan explained that the lot is a building lot and that the Zoning Board's job is to grant exceptions to help people build while keeping in character of the neighborhood.

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.

2018 JUN 12 P 4 29  
TAPPAN ZONING BOARD



**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 lot area, lot width and street frontage variances are recognized as pre-existing non-conforming conditions that will continue to exist. The requested floor area ratio, rear yard and §5.21 (c) Undersized lot side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. There are several other undersized lots in the area that have been granted similar variances.
2. The requested lot area, lot width and street frontage variances are recognized as pre-existing non-conforming conditions that will continue to exist. The requested floor area ratio, rear yard and §5.21 (c) Undersized lot side yard, total side yard and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There are several other undersized lots in the area that have been granted similar variances.
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, rear yard, and §5.21 (c) Undersized lot side yard, total side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The requested lot area, lot width and street frontage variances are recognized as pre-existing non-conforming conditions that will continue to exist. There are several other undersized lots in the area that have been granted similar variances.
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, rear yard, and §5.21 (c) Undersized lot side yard, total side yard and building height variances are **APPROVED**; and the requested lot area, lot width and street frontage variances are recognized as pre-existing non-conforming conditions that will continue to exist. 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.

2018 JUN 12 P 11:29  
CLERK'S OFFICE  
ORANGETOWN

General Conditions:

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

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

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

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

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


TOWN OF ORANGETOWN  
2018 JUN 12 P 04 29  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, rear yard, and §5.21 (c) Undersized lot side yard, total side yard and building height variances are APPROVED; and the requested lot area, lot width and street frontage variances are recognized as pre-existing non-conforming conditions that will continue to exist; was presented and moved by Mr. Quinn, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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

DATED: June 6, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2018 JUN 12 P 4: 29  
TOWN OF ORANGETOWN

DECISION

**6 MONTH EXTENSION OF TIME TO IMPELEMENT: NEW YORK STATE TOWN LAW 280-a EXCEPTION VARIANCE AND SIDE YARD VARIANCE FOR LOT #E GRANTED**

To: John Atzl (Rohland)  
234 North Main Street  
New City, New York 10956

ZBA #18-31  
Date: June 6, 2018  
Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-31: Application of Rohland Subdivision for an extension of time to implement variances that were granted in ZBA#15-17: Application of Rohland Site Plan for an exception /variance pursuant to New York State Town Law, Section 280-a ( Relation of structure to streets or highways) and for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, LI District, Group QQ, Column 9 (Side Yard: 50' required, 36.6' provided for lot #E) for a site plan located at 401-407 Western Highway, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.18, Block 3, Lot 31; in the LO/LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 6, 2018 at which time the Board made the determination hereinafter set forth.

John Atzl, Land Surveyor, and Scott Dowd, Attorney, appeared and testified.

The following documents were presented:

1. Copy of site plan dated October 11, 2013 with the latest revision date of 12/12/2014 signed and sealed by John R. Atzl, Land Surveyor and Ryan A. Nasher, P.E. (3 pages).
2. Zoning Board Decision ZBA#15-17 dated March 4, 2015.

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 December 10, 2014 (set for in PB# 13-47 for the ROHLAND SITE PLAN) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Sullivan, aye. Mr. Bosco was absent.

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TOWN OF ORANGETOWN

John Atzl, Land Surveyor, testified that this is a commercial subdivision/ site plan for a contractors storage yard; that they have Planning board approval and this is the last piece to be done for the existing conditions; that there has never been frontage for each use and the existing metal building has been there for about twenty years; and they needed to renew the variances in order to get the subdivision and site plan filed by August.

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/ and New York State Town Law Section 280-a exception was granted that would warrant Board reconsideration of its approval.
2. Applicants stated that they expect to file the subdivision plat very soon.

JOHN CLERKS OFFICE  
2018 JUN 12 P 4 29  
TOWN OF GRANVILLE

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 granted in ZBA Decision #15-17 is GRANTED FOR 6 MONTHS FROM THE DATE OF THE STAMPED DECISION; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

**General Conditions:**

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

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

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

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

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

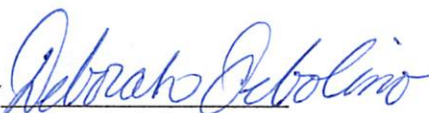
TOWN OF ORANGETOWN  
2018 JUN 12 PM 4:29  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested extension of time to implement variances that were granted in ZBA#15-17 is GRANTED for six months from the date of this stamped decision; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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

DATED: June 6, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2018 JUN 12 P 4: 29  
TOWN OF ORANGETOWN



DECISION

**§ 5.227 REAR YARD VARIANCE FOR POOL APPROVED AS MODIFIED WITH SPECIFIC CONDITIONS**

To: Kyle Van Dyke  
Cool Pool  
85 South Pascack Road  
Nanuet, NY 10954

ZBA #18-32  
Date: June 6, 2018  
Permit # 47493

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-32: Application of Mike and Mary Pellegrino for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.227 (Rear Yard for pool: 20' required, 10' proposed, 13' approved) for the installation of an in-ground pool at an existing single-family residence. The premises are located at 82 Hamilton Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 74.17, Block 2, Lot 22 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 6, 2018 at which time the Board made the determination hereinafter set forth.

Mike and Mary Pellegrino and Kyle VanDyke, Cool Pool, appeared and testified.

The following documents were presented:

1. Survey for tax lot 74.17-2-22 labeled "Proposed Pool for 82 Hamilton Avenue" dated 04/29/2018 signed and sealed by Anthony R. Celentano, PLS.
2. Aqua Steel custom shape pool plan dated 4/4/2018 signed and sealed by James A. Marx Jr. 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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

TOWN CLERK'S OFFICE  
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UNRECORDED

Kyle Van Dyke, Cool Pool, testified that the pool measures 22' x 41'; that the property is in the R-15 zoning district; that they are proposing to place the pool 10' from the property line because they would like to keep it further away from the house than the required 8' because that would only be about four steps from the back door; that they have second story windows and do not want the pool too close; that they want to have a dining area on the patio and need that area to be ten feet wide with an additional four feet for the seats not to feel boxed in; that placing the dining area by the driveway would be awkward; that they do not want to reduce the size of the pool because of the cost; that installing a 12' wide pool is like having a spa; that they have decided that they want a diving pool and the diving envelope has to be a certain size, so reducing the pool size would not allow the pool to be a diving pool; that moving it closer to the driveway would place it too close to the back door; and the property to the rear is 92' away and the pool would be 55' from the pool edge to the right side.

Mary Pellegrino testified that her husband has retired from the NYPD after 23 years and this is a retirement gift for him; that they have 2 small kids and they have safety concerns about the pool being too close to the house; that they would like to entertain family and friends and enjoy weekends at home because they did not have that ability when he was working.

Mike Pellegrino testified that 89 Hamilton got a variance in 1995 for their pool.

Public Comment:

Brian Koonan, 29 Pulaski Court, Orangeburg, testified that it is hard to hear the testimony from the seats; that he and his wife looked at the plans two weeks ago the pool was not a diving pool; that he is concerned about the ten foot rear yard setback; that his property is higher than the applicants and they have already removed trees; that the noise level is a concern; that planting new trees would be great and moving the pool five feet closer to the house would be helpful; and he showed a drawing of the pool in compliance at 8' from the house; that the fence and a smaller pool could meet the setback requirements; and the neighbor that spoke in support is 50' from this application.

Christopher McCarthy, 74 Hamilton Avenue, testified that he is in favor of the pool plan; that aesthetically it is nice and if it was moved it would chop the yard in half; that if it were moved closer to the house it would leave dead space in the rear of the yard; and that this is an improvement for the neighborhood.

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.

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TOWN OF ORANGEBURG  
PLANNING DEPARTMENT

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 §5.227 rear yard pool variance as modified to 13' will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to plant a row of 6' to 8' arborvitae along the rear property line the length of the proposed pool.
2. The requested §5.227 rear yard pool variance as modified to 13' will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has agreed to plant a row of 6' to 8' arborvitae along the rear property line the length of the proposed pool.
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 §5.227 rear yard pool variance as modified to 13', although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The applicant has agreed to plant a row of 6' to 8' arborvitae along the rear property line the length of the proposed pool.
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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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested §5.227 rear yard pool variance is APPROVED as MODIFIED TO 13' REAR YARD; with the SPECIFIC CONDITION that the applicant plant the rear property line the length of the proposed pool with a row of arborvitae at the minimum height of 6 to 8 feet; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN OF ORANGETOWN  
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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested §5.227 rear yard pool variance is APPROVED as MODIFIED TO 13' REAR YARD; with the SPECIFIC CONDITION that the applicant plant the rear property line the length of the proposed pool with a row of arborvitae at the minimum height of 6 to 8 feet; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, nay. Mr. Bosco was absent.

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

DATED: June 6, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
2018 JUN 12 P 4:30  
TOWN OF ORANGETOWN

DECISION

**FLOOR AREA RATIO VARIANCE APPROVED**

To: Gustavo Jara  
9 Heather Lane  
Orangeburg, New York 10962

ZBA #18-33  
Date: June 6, 2018  
Permit #47422

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-33: Application of Gustavo Jara for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .26 proposed) for and addition to an addition to a single-family house, including a shed, pool house and gazebo. The premises are located at 9 Heather Lane, Orangeburg, New York and are identified on the Orangetown tax Map as Section 74.14, Block 2 Lot 18 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 6, 2018 at which time the Board made the determination hereinafter set forth.

Gustavo Jara appeared and testified.

The following documents were presented:

1. Site plan signed and sealed by Gustavo Jara, RA. Dated 03/04/2018 ( no reference to the surveyor. Revised site plan submitted dated 5/23/2018 signed and sealed by Gustava Jara, Architect taken from survey by Alfred R. Voght II dated September 30, 1963.
2. Architectural plans dated 03/04/2018 signed and sealed by Gustavo Jara, RA. A-100,A-2, A-3, A-4.
3. A letter dated May 21, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated May 7, 2018 from the Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
5. A letter dated May 4, 2018 from the Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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Gustavo Jara testified that he grew up in Rockland and his parents bought this house; that it is on a larger lot than most of the houses in the neighborhood; that he and wife live in the house with his mother; that they would like to have a garage for their cars and a workshop area; that they are proposing a shed for the lawnmower and landscape materials; and they are also asking for an open air gazebo that would provide a shaded area for outdoor dining; that the proposed garage is 20' x 27.9' and they are not increasing the floor area by 30%.

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 proposed improvements to the property are not negatively impacting the existing infrastructure, nor congesting the roads or the sewer system. Other houses in the area have similar additions.
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.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested floor area ratio variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The proposed improvements to the property are not negatively impacting the existing infrastructure, nor congesting the roads or the sewer system. Other houses in the area have similar additions.

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TOWN ENGINEERING



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** to over-ride modification #1 and #3 of the Rockland County Planning letter dated May 21, 2018; 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.

Ms. Salomon made a motion to over-ride modification #1 of the Rockland County Planning Department letter dated May 21, 2018 because the Palisades Interstate Park Commission was included in the referral that was mailed out April 27, 2018 and they did not respond; and to over-ride #3 of the same letter because the proposed floor area variance that was requested would not increase residential density, or cause more congestion on local roads, or overburden the sewer system, stormwater management systems or public water supply; the proposed additions are to accommodate three adults living in the residence; which motion was seconded by Ms. Castelli and carried unanimously.

**General Conditions:**

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

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2018 JUN 12 P 12:30

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


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

The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED and FURTHER RESOLVED to over-ride modification #1 and #3 of the Rockland County Planning letter dated May 21, 2018; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Bosco was absent.

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

DATED: June 6, 2018

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
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BUILDING INSPECTOR-M.M.

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

TOWN CLERK'S OFFICE  
2018 JUN 12 P 4:30  
TOWN OF ORANGETOWN