

MINUTES
ZONING BOARD OF APPEALS
October 3, 2018

MEMBERS PRESENT:

JOAN SALOMON
MICHAEL BOSCO
PATRICIA CASTELLI,
LEONARD FEROLDI, ALTERNATE

ABSENT:

DAN SULLIVAN
THOMAS QUINN

ALSO PRESENT:

Ann Marie Ambrose, Deborah Arbolino, Denise Sullivan,	Official Stenographer Administrative Aide Deputy Town Attorney
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This meeting was called to order at 7: 00 P.M. by Ms. Castelli, Acting Chair.
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

DEAN CUSTOM AWNINGS 529 Route 303 Orangeburg, NY 70.19 / 1 / 40; LIO zone	LOT WIDTH, SIDE YARD, TOTAL SIDE YARD AND OUTDOOR LOADING BERTHS AND FOUR OUTDOOR STORAGE CONTAINER VARIANCES APPROVED	ZBA# 18-65
DEAN CUSOM AWNINGS PERFORMANCE STANDARDS 529 Route 303 Tappan, NY 70.19 / 1 / 40; LIO zone	PERFORMANCE STANDARDS CONFORMANCE APPROVED	ZBA# 18-66
MALONEY SUBDIVISION 60 Fisher Avenue Pearl River, NY 68.11 / 2 / 70; R-15 zone	FLOOR AREA RATIO FOR LOT #1, STREET FRONTAGE FOR LOT #2 APPROVED	ZBA#18-67
FERRIELLO 87 Pearce Parkway Pearl River, NY 69.09 / 2 / 42; R-15 zone	FLOOR AREA RATIO, FRONT YARD, BUILDING HEIGHT AND SIDE YARD VARIANCES APPROVED §5.21 UNDERSIZED LOT APPLIES	ZBA#18-68

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CHALY 18 Valenza Lane Blauvelt, NY 70.11 / 1 / 21; R-40 zone	FRONT YARD VARIANCE APPROVED	ZBA#18-69
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BLOODGOOD 100 Campbell Avenue Tappan, NY 77.11 / 2 / 87; R-15 zone	FLOOR AREA RATIO, REAR YARD VARIANCES APPROVED §5.21 UNDERSIZED LOT APPLIES	ZBA#18-70
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FERNANDEZ 56 Ehrhardt Road Pearl River, NY 69.09 / 4 / 20; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#18-71
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THE LEARNING CENTER 2 Greenbush Road Orangeburg, NY 74.15 / 1 / 22; LI zone	SIGNAGE: SIZE & ILLUMINATION VARIANCES APPROVED	ZBA#18-72
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OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Dionnes Way Site Plan, 12-16 North Main Street, Pearl River, NY, 68.16 / 6 / 67; PAC zoning district; Palisades Veterinary Hospital Site Plan, 37 Hunt Road, Orangeburg, NY 73.15 / 1 / 11; R-80 zoning 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 9:20 P.M.

Dated: October 3, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

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

**LOT WIDTH, SIDE YARD & (4) STORAGE CONTAINERS LOCATED ON THE NORTH SIDE OF THE BUILDING VARIANCES APPROVED
TOTAL SIDE YARD AND OUTDOOR LOADING BERTH VARIANCES GRANTED IN ZBA#03-48 ON MAY 21, 2003**

To: Charles Collishaw
528 Route 303
Orangeburg, New York 10962

ZBA #18-65
Date: October 3, 2018
Permit #47418

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-65: Application of Dean Custom Awnings for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, Group CC, Columns 5 (Lot Width: 300' required, 250' existing), 9 (Side Yard: 100' required, 25' existing) and 10 (Total Side Yard: 200' required, 134.5' existing) and from Section 3.11, Column 7 refer to LO District, Column 7, #2; Accessory Storage & Loading Berths shall be within completely enclosed buildings. The property is located at 529 Route 303, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 40; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

Charles Collishaw appeared and testified.

The following documents were presented:

1. Site Plan dated 07/02/2018 signed and sealed by Jay Greenwell, L.S.
2. As built Floor Plans for 527-529 Route 303, Orangeburg, NY dated April 5, 2018 with the latest revision date of August 10, 2018 signed and sealed by Bart M. Rodi, P.E.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 June 27, 2018 (set forth in PB#18-24 for Dean Awning Conditional Use Permit) 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. Salomon and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Ms. Salomon, aye. Mr. Quinn and Mr. Sullivan were absent.

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Charles Collishaw testified that he purchased the building in July 2017 and found out that one of the tenants never got a certificate of occupancy; that although the property purchase came through with no violations, violations were found later; that they are trying to resolve the issues and clean up the property moving forward; that the company without the certificate of occupancy has left the building; that they are cleaning up the lot and have removed about a dozen rollaway containers; that they would like to keep the four that are located next to the building on the north side because they use them for hardware storage, nuts and bolts and metal pieces used in the construction of the awning frames; that he owns the company and the building now; that they use the area by the overhead door to bring in metal frames and apply the material to them; that they will add whatever screening the Board would like them to add; that they have eight employees on site and they get deliveries from UPS and fabric is delivered weekly.

The Board noticed that the plans stated that variances were granted for outdoor loading berths and total side yard in ZBA#03-48 dated May 21, 2003 and asked the Clerk to verify that.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested lot width, side yard, and 4 outdoor storage container variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The building has existed in its present state for many years and the total side yard and outdoor loading berth variances were granted in ZBA Decision #03-48 dated May 21, 2003. The property is in the process of being cleaned up and many outdoor storage containers have been removed from the property; only four outdoor storage containers remain and are located on the north side of the building across from the overhead garage doors.

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2. The requested lot width, side yard, and 4 outdoor storage containers variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The building has existed in its present state for many years and the total side yard and outdoor loading berth variances were granted in ZBA Decision #03-48 dated May 21, 2003. The property in the process of being cleaned up and many outdoor storage containers have been removed from the property.; only four outdoor storage containers remain and are located on the north side of the building across from the overhead garage doors.
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 width, side yard, and 4 outdoor storage container 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 building has existed in its present state for many years and the total side yard and outdoor loading berth variances were granted in ZBA Decision #03-48 dated May 21, 2003. The property in the process of being cleaned up and many outdoor storage containers have been removed from the property; only four outdoor storage containers remain and are located on the north side of the building across from the overhead garage doors.
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 width, side yard, and 4 outdoor storage container variances are **APPROVED**; and **FURTHER RESOLVED** that the total side yard and outdoor loading berth variances were granted in ZBA Decision #03-48 dated May 21, 2003; 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.

Deans Custom Awnings

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


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

The foregoing resolution to approve the application for the requested lot width, side yard, and 4 outdoor storage container variances are APPROVED and that the total side yard and outdoor loading berth variances were granted in ZBA Decision #03-48 dated May 21, 2003; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 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-M.M.

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

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DECISION

CONFORMANCE TO PERFORMANCE STANDARDS APPROVED

To: Charles Collishaw
529 Route 303
Orangeburg, New York 10962

ZBA #18-66
Date: October 3, 2018
Permit # 47418

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 18-66: Application of Dean Custom Awnings requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.1 Performance Standards review for fabrication of custom made awnings and guard booths. The property is located at 529 Route 303, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 70.19, Block 1, Lot 40; in the LIO zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, July 18, 2018 at which time the Board made the determination hereinafter set forth.

Charles Collishaw appeared and testified.

The following documents were presented:

1. Site Plan dated 07/02/2018 signed and sealed by Jay Greenwell, L.S.
2. As built Floor Plans for 527-529 Route 303, Orangeburg, NY dated April 5, 2018 with the latest revision date of August 10, 2018 signed and sealed by Bart M. Rodi, P.E..
3. Use Subject to Performance Standards Resume of Operations dated August 8, 2018.
4. Fire Prevention Supplement.
5. A memorandum August 27, 2018 from Michael Weber, Chief Operator, Department of Environmental Management and Engineering, Town of Orangetown.
6. A memorandum August 27, 2018 from Bruce Peters, P.E., Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.
7. A memorandum dated 9/7/2018 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
8. A letter dated October 3, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
9. A letter dated September 24, 2018 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.

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

Charles Collishaw testified that he purchased the building in July 2017 and they have been cleaning everything up and they assemble awnings and guard booths; that they have eight on-site employees; that he does have a propane forklift and the propane tanks are stored outside in an open container area; and that he would be the contact person if any additional information were needed.

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Md. Castelli moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements the application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye; Mr. Bosco, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

The Board reviewed the Performance Standards and Fire Supplement forms.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, and the Fire Prevention Supplement; the reports dated August 27, 2018 from Michael Weber, Chief Operator and Bruce Peters, engineer III of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated September 7, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents submitted to the Board, and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., B.F.P., and all other departments having jurisdiction of the premises.

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DECISION: In view of the foregoing and the testimony and documents submitted, the Board: **RESOLVED** that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the following **SPECIFIC CONDITIONS:** (1) the reports dated August 27, 2018 from Michael Weber, Chief Operator and Bruce Peters, engineer III of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated September 7, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); shall be complied with; **AND FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: (1) the reports dated August 27, 2018 from Michael Weber, Chief Operator and Bruce Peters, engineer III of the Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated September 7, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); shall be complied with; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Ms. Salomon, aye; Mr. Feroldi, aye ; Mr. Bosco, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 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 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

**FLOOR AREA RATIO FOR LOT #1, AND STREET FRONTAGE FOR LOT #2
VARIANCES APPROVED**

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

ZBA #18-67
Date: October 3, 2018
Permit # N.A.

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-67: Application of Maloney Subdivision for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .22 existing for existing house) on lot #1; and Column 7 (Street Frontage: 75' required, 39.03' proposed) for lot # 2; for a proposed two-lot residential subdivision. The premises are located at 60 Fisher Avenue, Pearl River, New York and are identified as Section 68.11, Block 2, Lot 70, in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

Dorothy Maloney, Donald Brenner, Attorney and Jay Greenwell Land Surveyor, appeared and testified.

The following documents were presented:

1. Subdivision plan for Maloney dated 03/24/2016, revised 01/15/2017 signed and sealed by Jay A. Greenwell, L.S.. (3 pages)
2. Project narrative not signed.
3. A memorandum dated June 26, 2018 from Jane Slavin, RA, Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
4. Planning board decision # 16-73, dated June 27, 2018, Preliminary Subdivision Plan Approval subject to Conditions /Neg. Dec.
5. A letter dated October 2, 2018 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated September 23, 2018 from the Rockland County Health Department signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. A letter dated September 18, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
8. A letter dated August 28, 2018 from Antonio Luciano Planning Board member, Village of Chestnut Ridge, NY

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 June 27, 2018 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. Salomon and carried as follows: Mr. Bosco, aye; Ms. Castelli, aye; Mr. Feroldi, aye; and Ms. Salomon, aye. Mr. Quinn and Mr. Sullivan were absent.

Donald Brenner, Attorney, testified that there is a water problem in this area; that the Maloney's are going to pay the Highway Department for the pipe to pipe the stream underground and attach it to the water that is already being diverted from the north and south; that this is expensive and in order to pay for it the Maloney's need to subdivide the property and sell off a lot; that when he was in charge of the public works department the town use to pay for the pipe to solve water problems but they are not allowed to do that anymore; that the Town's Drainage consultant Brooker Engineering, sized the pipe and designed it to accommodate the water flow during a 100 year storm; that the plan will accommodate the new house also; that Maser Consulting also reviewed the plan and finds it acceptable; that this will be an improvement for the area; and part of the pipe will be under the 10' wide driveway at the new house and if the town needs to dig it up to fix the pipe, the damage to the driveway will be paid for and fixed by the homeowner.

Jay Greenwell, Land Surveyor, testified that there is an issue with drainage in the area; that the property to the north and to the south have piped the stream but this property has a portion of the stream that is not piped and it has caused problems; that the Highway Department is out at every heavy rain to clear out debris from the storm drains because of this gap in water collection; that the drainage plan that has been approved for the site with the piping of the stream and dry wells will definitely improve the water problems in the area; that when the work is done an as-built of the work will be part of the record and the DEME will have a Town Easement and it will be maintained as part of the comprehensive drainage plan for the Town.

Dorothy Maloney testified that the water problems in the area will be improved with the piping.

Public Comment:

Thomas McGuire, 31 Selena Road, Pearl River, testified that he has owned his home since 1965; that every time it rains heavy the Town Highway department comes to clean out the drains; that the Town does a great job; that they remove the debris and he does not want to stop his neighbor from doing anything but he is concerned about the water and the drainage; that the previous owner would not let the Town install the pipes because she said it would upset nature in the area with the birds and deer; that he would like the ZBA to confirm that there will be no flooding problems and asked who would be responsible to fix the driveway if the pipe needed to be repaired.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance for lot #1 and the street frontage variance for lot #2 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Piping the stream will be an improvement for the neighborhood.
2. The requested floor area ratio variance for lot #1 and the street frontage variance for lot #2 will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Piping the stream will be an improvement for the neighborhood
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio variance for lot #1 and the street frontage variance for lot #2, 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. Piping the stream will be an improvement for the neighborhood
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

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 for lot #1 and the street frontage variance for lot #2 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.

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TOWN CLERK'S OFFICE

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 CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested floor area ratio variance for lot #1 and the street frontage variance for lot #2 are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 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-N.A.

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

TOWN OF ORANGETOWN
2018 OCT 19 A 10:35
TOWN CLERK'S OFFICE

DECISION

**FLOOR AREA RATIO, FRONT YARD, § 5.21 (e) BUILDING HEIGHT AND
§ 5.21 (c) SIDE YARD VARIANCES APPROVED**

To: Karl Ackermann (Ferriello)
159 E. Central Avenue
Pearl River, N.Y. 10965

ZBA #18-68
Date: October 3, 2018
Permit # 47825

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-68: Application of John Ferriello for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Columns 4 (Floor Area ratio: .20 permitted, .2567 proposed), 8 (Front Yard: 30' required, 21.5' proposed); Section 5.21(e) : (Building Height: 20' permitted, 25.7 proposed) and from Section 5.21 (c) (Side Yard: 15' required, 11.8' existing) for an addition to an existing single-family residence. The premises are located at 87 Pearce Parkway, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 2, Lot 42; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

Karl Ackermann, Architect and John Ferriello appeared and testified.

The following documents were presented:

1. Architectural plans dated June 6, 2018 with the latest revision date of July 4, 2018 labeled " Proposed New Residence for Mr. Ferriello" signed and sealed by Karl Ackermann, Architect (6 pages).

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

Karl Ackermann, Architect, testified that Mr. Ferriello purchased this house in a really beat up condition; that he is proposing to add a real second floor and a front porch; that the proposal is for three bedrooms upstairs and one down stairs; that there are several houses in the area with similar additions; that this proposal is in keeping with character of the neighborhood; that the original house was built around World War II; that there are a few houses on Douglas and Pearce that are similar; and it will be an improvement for the neighborhood.

John Ferriello testified that he purchased the house about four months ago.

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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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, front yard, § 5.21 (e) building height and § 5.21 (c) side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar renovations and additions have been completed in the neighborhood.
2. The requested floor area ratio, front yard, § 5.21 (e) building height and § 5.21 (c) side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . Similar renovations and additions have been completed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio, front yard, § 5.21 (e) building height and § 5.21 (c) side yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. . Similar renovations and additions have been completed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE

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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 floor area ratio, front yard, § 5.21 (e) building height and § 5.21 (c) side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested floor area ratio, front yard, § 5.21 (e) building height and § 5.21 (c) side yard variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 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 OF ORANGETOWN
2018 OCT 19 A 10:35
TOWN CLERK'S OFFICE

DECISION

FRONT YARD VARIANCE APPROVED

To: George Chaly
18 Valenza Lane
Blauvelt, New York 10913

ZBA #18-69
Date: October 3, 2018
Permit #47924

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-69: Application of George Chaly for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-40 District, Group E, Column 8 (Front Yard: 50' required, 47.4' proposed) for an addition to an existing single-family residence. The premises are located at 18 Valenza Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.11, Block 1, Lot 21; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

George Chaly appeared and testified.

The following documents were presented:

1. Site Plan dated 06/29/2018 signed and sealed by Liborio Derario, Architect (1 page).
2. Architectural plans dated May 15, 2018 last revision date of June 29, 2018 labeled "Chaly Residence" signed and sealed by Liborio Derario, Architect (1 page).
3. A letter dated October 2, 2018 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated September 19, 2018 from the Rockland County Sewer District #1 signed by Joseph LaFiandra, Engineer II.
5. No Comment forms from Rockland County Department of Health and Rockland County Highway Department.

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

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George Chaly testified that they purchased the house in 2014; that they have water damage in the front of the house from rain and snow; that they would like to extend the portico to correct the water problems and the proposed portico is in keeping with the character of the neighborhood.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other houses in the neighborhood have similar porticos.
2. The requested front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other houses in the neighborhood have similar porticos.
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 front yard 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. Other houses in the neighborhood have similar porticos.
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 front yard variance is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN CLERK'S OFFICE
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The foregoing resolution to approve the application for the requested front yard variance is APPROVED; was presented and moved by Mr. Feroldi, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Feroldi, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 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-M.M.

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

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

DECISION

§5.21 UNDESIZED LOT APPLIES, FLOOR AREA RATIO AND REAR YARD VARIANCES APPROVED

To: Stephen Lubeck (Bloodgood)
122 Highmount Avenue
Upper Nyack, New York 10960

ZBA #18-70
Date: October 3, 2018
Permit #47897

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-70: Application of Robert Bloodgood for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: .20 permitted, .35 proposed) and 11 (Rear Yard: 35' required, 27.2' proposed) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 100 Campbell Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 87; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

Stephen Lubeck, Contractor, appeared and testified.

The following documents were presented:

1. Plot Plan dated 06/15/2018 signed and sealed by Robert E. Sorace, PLS.
2. Architectural plans dated March 21, 2018, last revised April 18, 2018, labeled "Bloodgood Residence" signed and sealed by John Perkins, Architect (3 pages).

Ms. Castelli, Acting Chair, made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Salomon and carried as follows: Mr. Bosco, aye; Ms. Salomon, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Sullivan and Mr. Quinn were absent.

Steven Lubeck, Contractor, testified that Robert and his brother inherited the house; that it is an existing two family residence; that Robert and his wife are expecting a baby and the downstairs apartment is very small and they would like to extend under the existing first floor of the house; the rear yard condition already exists; and that the house is pre-existing non-conforming.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot is a pre-existing non-conforming lot and the proposed addition is not extending further into the rear yard from what presently exists. Although the floor area ratio seems very large, the proposed addition is not large; the lot is undersized by over 6,000 sq. ft..
2. The requested floor area ratio and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is a pre-existing non-conforming lot and the proposed addition is not extending further into the rear yard from what presently exists. Although the floor area ratio seems very large, the proposed addition is not large; the lot is undersized by over 6,000 sq. ft..
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area ratio and rear yard variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The lot is a pre-existing non-conforming lot and the proposed addition is not extending further into the rear yard from what presently exists. Although the floor area ratio seems very large, the proposed addition is not large; the lot is undersized by over 6,000 sq. ft..
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 CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio and rear yard variances are APPROVED and the Undersized lot is acknowledged; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested floor area ratio and rear yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Bosco, seconded by Ms. Salomon and carried as follows: Mr. Feroldi, aye; Mr. Bosco, aye; Ms. Salomon, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 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 OF ORANGETOWN
2018 OCT 19 A 10:35
TOWN CLERK'S OFFICE

DECISION

TOTAL SIDE YARD VARIANCE APPROVED

To: John Fernandez
56 Ehrhardt Road
Pearl River, New York 10965

ZBA #18-71
Date: October 3, 2018
Permit #47922

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-71: Application of John and Lisa Fernandez for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 10 (Total Side Yard: 50' required, 43.5' proposed) for an addition to an existing single-family residence. The premises are located at 56 Ehrhardt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 4, Lot 20; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

John and Lisa Fernandez appeared and testified.

The following documents were presented:

1. Architectural plans dated June 26, 2018 labeled "Proposed addition & Renovations Fernandez Residence" signed and sealed by John F. Mufinski, Architect (4 pages).

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (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. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

John Fernandez testified that they purchased the house in 1996; that they have three teenagers now and they need another full bathroom and a bedroom; that they are going straight back on the house but the property is shaped like a trapezoid and the side yards are slanted, which is causing the need for the total side yard variance.

Public Comment:

Beatrice Mason, 80 Ehrhardt Road, testified that she wanted to make sure that the granting of this variance doesn't negatively affect her property; that she has a large lot and the future owner may want to subdivide he property.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant is adding onto the rear of the house. The odd shaped property is causing the need for the total side yard variance.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant is adding onto the rear of the house. The odd shaped property is causing the need for the total side yard variance.
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 total side yard 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 applicant is adding onto the rear of the house. The odd shaped property is causing the need for the total side yard variance.
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 total side yard variance is **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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ZBA#18-71
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Permit #47922

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

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

DATED: October 3, 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

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DECISION

§ 3.11, COLUMN 5, PARAGRAPH 7 SIGNAGE AND ILLUMINATION VARIANCES APPROVED

To: Noelle Wolfson (The Learning Center)
Hocherman, Tortorella & Weinstein
1 North Broadway, Suite 701
White Plains, NY 10601

ZBA #18-72
Date: October 3, 2018
Permit # 47903

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-72: Application of The Learning Center for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, Column 5, paragraph 7 (Signage not to exceed 60 sq. ft.: 88.25 sq. ft. proposed: 30 sq. ft. illuminated permitted; 35 sq. ft. illuminated proposed) for a child day care center. The premises are located at 2 Greenbush Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 75.15, Block 1, Lot 22; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 3, 2018 at which time the Board made the determination hereinafter set forth.

Geraldine Tortorella, Attorney, and Robin Foley, Foley Signs, appeared and testified.

The following documents were presented:

1. Overall Site Plan and Commercial Subdivision Plan, The Learning Experience at Orangeburg Commons, prepared by Leonard Jackson Associates, dated 11/20/2014, last revised 08/15/2018.
2. Layout "Part Plan" & Commercial Subdivision Plan, prepared by Leonard Jackson Associates, dated 11/20/14, last revised 7/12/18.
3. Exterior Elevations & Notes (A-4), The Learning Experience at Orangeburg Commons, prepared by Murray Jay Miller Architecture (11x17; color)
4. Letters and numerals sign plan, prepared by A&F Sign Co.(color).
5. The Learning Experience Illuminated Building Signage, prepared by A& F Sign Co.
6. A letter dated October 3, 2018 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. No comments from Rockland County Highway Department.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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 July 11, 2018 rendered environmental determinations of no significant adverse

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

Geraldine Tortorella, Attorney, testified that the Learning Center is a national childcare center and they are proposing signs that are trademark signs for the business; that the center is proposed in an area between the existing stop & Shop and Hotel and is approximately 420’ feet from Stephen’s Way and 744 feet from Route 303; that the signage is proportionate to the building; that a strip mall could be built on this portion of the property and each tenant could get 60 sq. ft. of signage; that the signage will not change the character of the neighborhood because of it is located between two buildings that are set back from State Route 303 with the railroad behind them; that the building is 10, 088 sq. ft. and the play area is 5,000 sq. ft.; that in proportion to the building the request for signage is not large; that they will have decorative sconces outside and she is not sure what hours the signs will be lit but they do have to go to ACABOR and they will discuss that there.

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.

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested sign size and illumination variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The location of the proposed childcare center is between Stop & Shop and Marriot Extended Stay Hotel which

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backs up to the railroad tracks and is 744' from Route 303 and 420' from Stephen's Way. This lot could have a 10,000 sq. ft. building with multiple tenants that would be permitted 60 sq. ft. of signage per tenant, taking the location and the fact that multiple tenants would get more signage, the proposal for the additional signage is reasonable.

2. The requested sign size and illumination variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The location of the proposed childcare center is between Stop & Shop and Marriot Extended Stay Hotel which backs up to the railroad tracks and is 744' from Route 303 and 420' from Stephen's Way. This lot could have a 10,000 sq. ft. building with multiple tenants that would be permitted 60 sq. ft. of signage per tenant, taking the location and the fact that multiple tenants would get more signage, the proposal for the additional signage is reasonable.
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 sign size and illumination 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 location of the proposed childcare center is between Stop & Shop and Marriot Extended Stay Hotel which backs up to the railroad tracks and is 744' from Route 303 and 420' from Stephen's Way. This lot could have a 10,000 sq. ft. building with multiple tenants that would be permitted 60 sq. ft. of signage per tenant, taking the location and the fact that multiple tenants would get more signage, the proposal for the additional signage is reasonable.
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 sign size and illumination variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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(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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Mr. Feroldi made a motion to over-ride the disapproval from Rockland County Planning letter signed by Douglas J. Schuetz, Acting Commissioner of Planning, dated October 3, 2018 for the following reasons: (1) The proposed childcare center is located between a Marriot Residence Hotel and Stop & Shop; (2) the proposed childcare center would be 744' from State Route 303 and 420' from Stephen's Way; (3) a 10,000 sq. ft. building with multiple tenants would be permitted 60 sq. ft. of signage per tenant; which motion was seconded by Mr. Bosco and carried as follows: Ms. Castelli, aye; Mr. Feroldi, aye; Ms. Salomon, aye and Mr. Bosco, aye. Mr. Quinn and Mr. Sullivan were absent.

The foregoing resolution to approve the application for the requested sign size an illumination variances are APPROVED; was presented and moved by Mr. Feroldi, seconded by Mr. Bosco and carried as follows: Ms. Salomon, aye; Mr. Bosco, aye; Mr. Feroldi, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Sullivan were absent.

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

DATED: October 3, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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