

MINUTES
ZONING BOARD OF APPEALS
October 17, 2018

MEMBERS PRESENT:

DAN SULLIVAN
THOMAS QUINN
JOAN SALOMON
MICHAEL BOSCO
PATRICIA CASTELLI,
LEONARD FEROLDI, ALTERNATE

ABSENT: NONE

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

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

PUBLISHED ITEMS

APPLICANTS

ZAPATA RESTAURANT
779 Route 340
Palisades, New York
77.20 / 2 / 24; R-15 zone

DECISIONS

CONTINUED

ZBA#18-63

O'SULLIVAN
865 Western Highway
Blauvelt, NY
65.17 / 1 / 8; R-40 zone

§9.3, SIDE YARD, TOTAL
SIDE YARD VARIANCES
APPROVED §5.21 UNDERSIZED LOT APPLIES

ZBA#18-59

O'SULLIVAN STOP WORK ORDER
865 Western Highway
Blauvelt, NY
65.17 / 1 / 8; R-40 zone

§6-13 STOP WORK ORDER
WITHDRAWN: REQUIRED VARIANCES
GRANTED

ZBA#18-60

NEW ITEMS:

GARSCHINA
23 Ludlow Lane
Palisades, NY
80.06 / 1 / 30 & 31.1; R-80 zone

FRONT YARD, SIDE YARD,
REAR YARD FENCE HEIGHT
VARIANCES APPROVED FOR LOT
80/08/1/31.1 : 23 LUDLOW LANE
LOT 80.06/1/30 MUST APPLY PROPERLY

ZBA# 18-73

CANFIELD
61 Washington Spring Road
Palisades, NY
78.18 / 1 / 17; R-80 zone

FLOOR AREA RATIO, LOT AREA,
LOT WIDTH, STREET FRONTAGE
AND FRONT YARD VARIANCES
APPROVED §5.21 UNDERSIZED LOT APPLIES

ZBA#18-74

TOWN CLERK'S OFFICE
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CRESTRON
PERFORMANCE STANDARDS
88 Ramland Road
Orangeburg, NY
77.05 / 1 / 36; LIO zone

PERFORMANCE STANDARDS
CONFORMS

ZBA#18-75

MC PHAUL
46 Kings Highway
Orangeburg, NY
74.111 / 2 / 21; R-40 zone

FRONT YARD, SIDE YARD,
TOTAL SIDE YARD, REAR YARD AND
ACCESSORY STRUCTURE DISTANCE
FROM PRIMARY STRUCTURE AND SIDE YARD
VARIANCES APPROVED AS MODIFIED; TO COMPLY
WITH SITE PLAN LAST REVISED 9/19.2018 SIGNED AND
SEALED BY CHARLES T. BROWN
§ 5.21 UNDERSIZED LOT APPLIES

ZBA#18-76

MAHER
114 Cottage Lane
Blauvelt, NY
70.10 / 1 / 47; R-15 zone

§5.227 REAR YARD
FOR A POOL VARIANCE APPROVED

ZBA#18-77

MAGEE
243 Edsall Terrace
Pearl River, NY
69.14 / 3 / 34; R-15

AMENDED SIDE YARD
VARIANCE APPROVED

ZBA#18-78

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: Rubano Site Plan, 1129-1131 Route 9W, Upper Grandview, NY, 71.05 / 2 / 24 & 29; RG zoning district; Diversified Glass & Storefront Conditional Use Permit; 8 Olympic Drive, Orangeburg, NY 73.15 / 1 / 16; LIO zoning district; Bloomberg Helipad: Amendment to filed Site Plan: 155 Corporate Drive Site Plan, 40 Corporate Drive, Orangeburg, NY, 73.19 / 1 / 1; LIO 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.

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 10:15 P.M.

Dated: October 17, 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

TOWN OF ORANGETOWN
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DECISION

**§ 9.3 DEGREE OF NON-CONFORMING BULK; SIDE YARD, TOTAL SIDE YARD, VARIANCES APPROVED §5.21 UNDERSIZED LOT APPLIES
§ 6.36 GRAVEL DRIVEWAY VARIANCE WITHDRAWN**

To: James O'Sullivan
865 Western Highway
Blauvelt, New York 10913

ZBA #18-59
Date: September 19, 2018
Permit # 47948

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-59: Application of James O'Sullivan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 9.3, (Degree of nonconforming bulk not to be increased), and from Section 3.12, Column 9 (Side Yard: 22' required, 18.2' proposed) and column 10 (Total Side Yard: 72' required, 47.2' proposed) Section 5.21 Undersized lot applies and from Section 6.36 (Driveways shall be paved and gravel is proposed: **request withdrawn**) for a garage at an existing single family residence. The premises are located at 865 Western Highway, Blauvelt, New York and are identified as Section 65.17, Block 1, Lot 8, in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 19, 2018 at which time the Board made the determination hereinafter set forth.

James O'Sullivan and Bart Rodi, Engineer, appeared and testified.

The following documents were presented:

1. Site Plan dated 08/01/2018 based on a survey by Atzl, Nasher & Zigler dated June 20, 2018 signed and sealed by Bart Rodi, P.E.
2. Architectural plans dated May 7, 2018 revised May 15, 2018 labeled "Proposed Garage Addition" signed and sealed by Bart M. Rodi, P.E. (2 pages).

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

Bart Rodi, Engineer, testified that the new garage is larger than the original garage; that it is set back 18.3' from the side yard and the total side yard is 47.3'; that these were existing non-conforming conditions that are continuing; and that they would like to remove the request for a variance for a gravel driveway because they are going to pave the driveway.

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 §9.3 Degree of non-conforming bulk, side yard, total side yard (§ 5.21 Undersized lot applies), variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The request for a variance for a gravel driveway has been withdrawn, the applicant is installing a blacktop driveway. The side yard and total side yard variances were pre-existing non-conforming conditions that are not changing.
2. The requested §9.3 Degree of non-conforming bulk, side yard, total side yard (§ 5.21 Undersized lot applies), variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The request for a variance for a gravel driveway has been withdrawn; the applicant is installing a blacktop driveway. The side yard and total side yard variances were pre-existing non-conforming conditions that are not changing.
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 §9.3 Degree of non-conforming bulk, side yard, total side yard (§ 5.21 Undersized lot applies), 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 request for a variance for a gravel driveway has been withdrawn; the applicant is installing a blacktop driveway. The side yard and total side yard variances were pre-existing non-conforming conditions that are not changing.
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 §9.3 Degree of non-conforming bulk, side yard, total side yard (§ 5.21 Undersized lot applies) variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested §9.3 Degree of non-conforming bulk, side yard, total side yard (§ 5.21 Undersized lot applies) variances are APPROVED; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: September 19, 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
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TOWN CLERK'S OFFICE

DECISION

STOP WORK ORDER RESCINDED/ REPEALED BECAUSE VARIANCES WERE GRANTED IN ZBA#18-59 DATED OCTOBER 17, 2018

To: James O'Sullivan
865 Western Highway
Blauvelt, New York 10913

ZBA #18-60
Date: October 17, 2018
Permit # 43486
Superceded by #47410

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-60: Application of James O'Sullivan for an appeal from Chapter 6, of the Code of the Town of Orangetown § 6-13 Stop Work Order issued by the Building Inspector on 4/12/2018. The premises are located at 865 Western Highway, Blauvelt, New York and are identified as Section 65.17, Block 1, Lot 8; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2018 at which time the Board made the determination hereinafter set forth.

James O'Sullivan and Bart Rodi, Engineer, appeared and testified.

The following documents were presented:

1. Survey dated August 25, 2004 by Robert Rahnefeld, P.L.S.
2. A letter dated June 14, 2018 from Donald S. Tracey to Jane Slavin, R.A., Director, OBZPAE.
3. Orangetown Justice Court Summons dated May 24, 2018 for James O'Sullivan signed by Richard C. Finning, Justice.
4. A signed information statement from Glen Maier, Building inspector, Town of Orangetown.
5. A building permit #43486 signed by John Giardiello, not dated.
6. A stop work order dated 04/12/2018 signed by Glenn Maier, Building Inspector.

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

James O'Sullivan testified that he was issued a permit for the house and did not commence any work on the site; that he came in and was issued a superseder permit by Jane Slavin, Director, and started construction; that Glenn Maier, the Building Inspector said that his variances had expired because they were not substantially implemented and issued him a stop work order; that they went to court because of the stop work order and they are here to lift it when they get the variances.

Public Comment:

No public comment.

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 appeal from Chapter 6, of the Code of the Town of Orangetown § 6-13 Stop Work Order issued by the Building Inspector on 4/12/2018 has been repealed/ rescinded because the applicant has received the side yard and total side yard variances in ZBA#18-59 granted on October 17, 2018.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for an appeal from Chapter 6, of the Code of the Town of Orangetown § 6-13 Stop Work Order issued by the Building Inspector on 4/12/2018 has been repealed/ rescinded because the applicant has received the side yard and total side yard variances in ZBA#18-59 granted on October 17, 2018; 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 an appeal from Chapter 6, of the Code of the Town of Orangetown § 6-13 Stop Work Order issued by the Building Inspector on 4/12/2018 has been repealed/ rescinded because the applicant has received the side yard and total side yard variances in ZBA#18-59 granted on October 17, 2018; was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: October 17, 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
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

TOWN OF ORANGETOWN
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DECISION

**FRONT YARD FENCE HEIGHT & SIDE YARD FENCE HEIGHT VARIANCES
APPROVED FOR LOT 80.06/1/31.1
LOT 80.06/1/30 MUST RETURN FOR REVIEW**

To: David Englander (Garschina/Story)
108 Washington Spring Road
PO Box 594
Palisades, New York 10964

ZBA #18-73
Date: October 17, 2018
Permit #47370

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-73: Application of Ken Garschina and Sara Story for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 5.226 (Fences and Walls: 4 ½' permitted in front yard, 6' in rear and side yards: 7' and 8' proposed for fence and gate) for a fence and gate at an existing single-family residence. The property is located at 23 Ludlow Lane, Palisades, New York and is identified on the Orangetown Tax Map as Section 80.06, Block 1, Lot 31.1; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2018 at which time the Board made the determination hereinafter set forth.

David Englander, Attorney, Jacob Bump, Bump Construction and Mark Strieter, Landscape Architect, appeared and testified.

The following documents were presented:

1. As-Built Survey 23 and 31 Ludlow Lane by Cherry Weber Van Cleef Engineering Associates, P.C. dated 10/12/12 with the latest revision date of 05/09/2018.
2. Two 8 ½" x 11" black and white of the fence posts and gate.
3. One 8 ½" x 11" picture of the fence and rock wall.

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. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

David Englander, Attorney, testified that they are trying to close out permits that were approved in 2013 by HABR; that they were not closed out and then when they came back to close it out they realized that the gate fence was simplified from the original approval; that they were originally only sent to HABR but the changes that were made require variances; that they are also before the Board for the 8' deer fencing which is set back 20' from Lawrence Lane and 20' to 30' from Ludlow Lane; that the fence is almost invisible; that it is a mesh fence 6' high with 8' high posts and two wires above the mesh fence area, designed to keep the deer out of the property; that the property is beautifully landscaped.

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Michael Bosco questioned the applicant about appearing before the Board with the project already installed and pointed out that the publication and denial were incorrect because the two properties have separate addresses and ownership and suggested that the applicant return for lot #30 address 31 Ludlow Lane with their deed.

Mark Strieter, Landscape Architect, testified that the existing columns by the gate are historic that when they made the application they were proposing a more intricate design for the gate but the family re-thought the design and asked the Historic Board of review a new design which was simpler than the first proposal and more transparent; that the 7' columns were pre-existing and have not changed.

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 §5.226 front yard, side yard, rear yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar fences and gates have been constructed in the area. The vehicular entry gate has 3.5' x 3.5' stone pillars that are seven feet (7') high and the gate is approximately six (6') feet in height. The (8') deer fencing has eight (8') foot high posts and six (6') foot mesh fence with two rows of wire above the mesh fence and is set back approximately 20' from Lawrence Lane and twenty (20') feet to thirty (30') feet from Ludlow Lane and also along or adjacent to the property boundary lines. The applicant shall return and request the variances for the deer fencing on lot #30 known as 31 Ludlow Lane with the correct deed.

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2. The requested §5.226 front yard, side yard, rear yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar fences and gates have been constructed in the area. The vehicular entry gate has 3.5' x 3.5' stone pillars that are seven feet (7') high and the gate is approximately six (6') feet in height. The (8') deer fencing has eight (8') foot high posts and six (6') foot mesh fence with two rows of wire above the mesh fence and is set back approximately 20' from Lawrence Lane and twenty (20') feet to thirty (30') feet from Ludlow Lane and also along or adjacent to the property boundary lines. The applicant shall return and request the variances for the deer fencing on lot #30 known as 31 Ludlow Lane with the correct deed.
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 §5.226 front yard, side yard, rear yard fence height variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar fences and gates have been constructed in the area. The vehicular entry gate has 3.5' x 3.5' stone pillars that are seven feet (7') high and the gate is approximately six (6') feet in height. The (8') deer fencing has eight (8') foot high posts and six (6') foot mesh fence with two rows of wire above the mesh fence and is set back approximately 20' from Lawrence Lane and twenty (20') feet to thirty (30') feet from Ludlow Lane and also along or adjacent to the property boundary lines. The applicant shall return and request the variances for the deer fencing on lot #30 known as 31 Ludlow Lane with the correct deed.
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 §5.226 front yard, side yard, rear yard fence height variance is APPROVED for 23 Ludlow Lane (80.06/1/31.1); and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

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General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested §5.226 front yard, side yard, rear yard fence height variance is APPROVED for 23 Ludlow Lane (80.06 / 1/ 31.1); was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: October 17, 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 OF ORANGETOWN
2018 OCT 24 P 2:28
TOWN CLERK'S OFFICE

DECISION

FLOOR AREA RATIO, LOT AREA, LOT WIDTH, STREET FRONTAGE, AND FRONT YARD VARIANCES APPROVED §5.21 UNDERSIZED LOT APPLIES

To: Rex Lalire (Canfield)
Lalire March Architect LLP
304 Hudson Street
New York, New York 10013

ZBA #18-74
Date: October 17, 2018
Permit # 47999

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-74: Application of Thomas Canfield for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-80 District, Group A, Section 3.12, Column 4 (Floor Area Ratio: .10 permitted, .16 proposed), Column 5 (Lot Area: 80,000 sq. ft. required, 11,326 sq. ft. existing) Column 6 (Lot Width: 150' required, 97' existing), Column 7 (Street Frontage: 100' required, 75' existing) and Column 8 (Front Yard: 50' required, 16.2' proposed) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 61 Washington Spring Road, Palisades, New York and are identified as Section 78.18, Block 1, Lot 17, in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2018 at which time the Board made the determination hereinafter set forth.

Rex Lalire, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans dated 08/013/2018 revised 09/14/2018 signed and sealed by Rex P. Lalire, Architect, labeled "Canfield Residence" 12 pages.
2. Survey dated September 8, 1988 revised September 19, 1988 by Peter E. Roffino, P.L.S.

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. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Rex Lalire, Architect, testified that they are proposing a small addition to an existing single family residence on a substandard lot; that this is the only lot on the street in the R-80 zoning district; it is surrounded by R-22 zoned houses; that they will be complying with the side yard setback but they will need a floor area ratio variance; that the proposed addition is an 8' by 14' mudroom and powder room and the house has sat abandoned for the last 18 years; that they would like to renovate it now for their daughter; and handed in a revised survey.

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Public Comment:

A person wishing to remain anonymous testified that the house seemed haunted for years, that the gas line was severed; that the retaining wall fell into the street; that he will be happy to see it cleaned up and occupied.

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, lot area, lot width, street frontage, and front yard (§ 5.21 Undersized lot applies) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The lot width, lot area, street frontage and front yard variances are for existing conditions that are not changing. The only change is floor area ratio and the lot is extremely undersized.
2. The requested floor area ratio, lot area, lot width, street frontage, and front yard (§ 5.21 Undersized lot applies) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot width, lot area, street frontage and front yard variances are for existing conditions that are not changing. The only change is floor area ratio and the lot is extremely undersized.
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, lot area, lot width, street frontage, and front yard (§ 5.21 Undersized lot applies) 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 width, lot area, street frontage and front yard variances are for existing conditions that are not changing. The only change is floor area ratio and the lot is extremely undersized

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

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested floor area ratio, lot area, lot width, street frontage, and front yard (§ 5.21 Undersized lot applies) variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

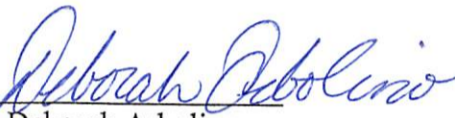
TOWN OF ORANGETOWN
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The foregoing resolution to approve the application for the requested floor area ratio, lot area, lot width, street frontage, and front yard (§ 5.21 Undersized lot applies) variances are APPROVED; was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: October 17, 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
2018 OCT 24 P 2:28
TOWN OF ORANGETOWN

DECISION

CONFORMANCE TO PERFORMANCE STANDARDS APPROVED

To: Anthony Morin
7 Volvo Drive
Rockleigh, New Jersey 07647

ZBA #18-75
Date: October 17, 2018
Permit # 47909

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA # 18-75: Application of Crestron 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 manufacturing operations. The property is located at 88 Ramland Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 77.05, Block 1, Lot 36; in the LIO zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2018 at which time the Board made the determination hereinafter set forth.

Terry Rice, attorney, Anthony Morin, Vice President of Real Estate, and Ferrando Petroni, Project Manager, appeared and testified.

The following documents were presented:

1. Amendment to Approved Site Plan dated 11/16/2016 with the latest revision date of 07/10/ 2018 signed and sealed by Steven L. Grogg, PE., McLaren Engineering Group. (8 pages)
2. Existing Building Use Plan for Crestron Orangeburg Interiors dated August 8, 2018 signed and sealed by Reid Brockmeier, RA..
3. Use Subject to Performance Standards Resume of Operations dated September 6, 2018.
4. Fire Prevention Supplement.
5. Material Data Safety Sheets (101 pages)
6. Booklets fro DM Multi Window Video Processor; Digital Media DMNVX Application Design Guide; Campus Technology Design Guide; Crestron Zum Wireless lighting control made easy; Courtroom Technology Design Guide; Creston Advances Control Systems for Government and Military; Crestron the beauty of total control; Crestron & Sonos; Crestron Home Technology' Whatever you need just say the word, Crestron and Amazon Alexa, talk about the future.
7. A memorandum September 27, 2018 from Michael Weber, Chief Operator, Department of Environmental Management and Engineering, Town of Orangetown.
8. A memorandum September 14, 2018 from Bruce Peters, P.E., Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.
9. A memorandum dated September 27, 2018 from Eamon Reilly, PE, Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
10. A memorandum dated 9/27/2018 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown.
11. A Memorandum dated October 1, 2018 from the Rockland County Department of Planning stating that the application is not within their jurisdiction.

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12. A letter dated October 15, 2018 from the Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
13. A letter dated October 3, 2018 from the Rockland County Sewer district #1 signed by Joseph LaFiandra, Engineer II.

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

Mr. Bosco stated that he does not know why they are even reviewing the application. The Town Engineer is accepting it and that should be it.

Terry Rice, Attorney, testified that he agrees with Mr. Bosco; that the applicant received Site Plan approval for the 195,000 sq. ft. building in January; that the site plan was revised to remove some of the loading berths; that the company is a high end audio component manufacturer; that they do not manufacturer components at this site but they do put components together; that the company is a good neighbor with no complaints and a good taxpayer.

Fernando Petroni, Project Manager testified that they use machinery for etching and laser and engraving and they box and test and package products; that the plan shows the flammable cabinets that will hold alcohol.

Anthony Morin, Vice President, Real estate, testified that the sanitary adjustment has been signed off by all the necessary agencies; that they presently have 300 employees and can increase to 490 employees; that the process has been long and they were held up a few month' that they are looking for the construction permit.

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

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.

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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 of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, and the Fire Prevention Supplement; the reports dated September 27, 2018 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated September 14, 2018, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the Memorandum dated September 27, 2018 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated September 27, 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.

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 September 27, 2018 from Michael Weber, Chief Operator and (2) Bruce Peters, Engineer III, memo dated September 14, 2018, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) the Memorandum dated September 27, 2018 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the report dated September 27, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); **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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2018 OCT 24 PM 2:28
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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.
- (v) Any approved variance, Performance Standards Conformance, or Special Permit will lapse if any contemplated construction of the project or any use for which the variance, Performance Standards Conformance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision, or that of any other board of the Town of Orangetown granting any required final approval to such project, whichever is later, but in any event within two years of the filing of this decision. Merely obtaining a Building Permit with respect to construction or a Certificate of Occupancy with respect to use does not constitute "substantial implementation" for the purposes hereof.


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The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: (1) the reports dated September 27, 2018 from Michael Weber, Chief Operator and (2) Bruce Peters, Engineer III, memo dated September 14, 2018, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) the Memorandum dated September 27, 2018 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the report dated September 27, 2018 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Ms. Salomon, aye; Mr. Bosco, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

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

DATED: October 17, 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
2018 OCT 24 P 2:28
TOWN OF ORANGE TOWN

DECISION

FRONT YARD, SIDE YARD, TOTAL SIDE YARD, REAR YARD, § 5.153 DISTANCE BETWEEN ACCESSORY STRUCTURES; § 5.227 ACCESSORY DISTANCE SIDE YARD; VARIANCES APPROVED AS MODIFIED to comply with Site Plan signed and sealed by Charles T. Brown last revised 09/19/2018 (§ 5.21 UNDERSIZED LOT APPLIES)

To: Cynthia McPhaul
46 Kings Highway
Orangeburg, New York 10962

ZBA #18-76
Date: October 17, 2018
Permit # 48003

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-76: Application of Cynthia McPhaul for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group A, Section 3.12, Column 8 (Front Yard: 50' required, 16.98' existing), Column 9 (Side Yard: 30' required, 17.68' proposed, 15.89' granted), Column 10 (Total Side Yard: 80' required, 70.09' proposed) and Column 11 (Rear Yard: 50' required, 13.01' proposed); and from Section 5.227 Accessory Structure set back refers back to (Col 9: Side Yard 30' required, 1.62' existing for garage 0' granted; 0' side yard granted for shed) and from Section 5.153 (Separation between primary structure and accessory structure: 15' required, 6' existing to garage) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 46 Kings Highway, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.11, Block 2, and Lot 21; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2018 at which time the Board made the determination hereinafter set forth.

Cynthia and Timothy McPhaul appeared and testified.

The following documents were presented:

1. Site plan for McPhaul dated 08/13/2018 with the latest revision date of 09/19/2018 signed and sealed by Charles T. Brown, P.E., Talcott Engineering Design PLLC.
2. Rear Deck & Covered Porch last revised 08/30/2018 by Charles T. Brown, P.E.
3. A memorandum dated September 4, 2018 from Jane Slavin, Architect, Director, Orangetown Office of Zoning Planning Administration and Enforcement.

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. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

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Cynthia McPhaul testified that the tornado that went through the area in May tore down a very large tree and it fell onto their property; that her son was in the back room and watched it start to fall and ran away from it; that they would like to rebuild what they had before the storm; that they are not enlarging anything; that this survey does not show the right size of what was existing, that there was a different survey in her property file that showed what was existing correctly but she was told that she could not use that survey because there was a pool on it and the pool does not exist anymore; that she used the survey from the file that the building department told her to use; that they have been back to Newburgh several times to address issues that the building inspector wanted added to the plan; and that the triangle piece of property by the garage belongs to them.

Timothy McPhaul testified that they have done everything the building department asked and they have traveled up to Newburgh to add items to the survey as requested and he would appreciate it if the Board would grant the variances based on this survey.

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 front yard, side yard, total side yard, rear yard and accessory structure variances for side yard and distance between structures as modified to comply with the site plan by Charles T. Brown, P.E. last revised 09/19/2018; will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. § 5.21 Undersized lot provisions apply for this lot and the front yard and side yard variances are existing conditions. The property is oddly shaped and the existing house was not built in the center of the lot.

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2. The following variances were granted based on the site plan by Charles T. Brown, P.E. last revised 09/19/2018: front yard: 16.98' approved; rear yard to addition 13.01' approved; side yard: 15.89' approved; total side yard: 70.09'; accessory structure to rear yard: 0' approved for garage; side yard: 1.62' approved for garage; accessory structure side yard for shed: 0' approved; distance between primary structure and accessory structure: 6' existing and approved for distance of garage to house.
3. The requested front yard, side yard, total side yard, rear yard and accessory structure variances for side yard and distance between structures as modified to comply with the site plan by Charles T. Brown, P.E. last revised 09/19/2018; will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. .§ 5.21 Undersized lot provisions apply for this lot and the front yard and side yard variances are existing conditions. The property is oddly shaped and the existing house was not built in the center of the lot.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
5. The requested front yard, side yard, total side yard, rear yard and accessory structure variances for side yard and distance between structures as modified to comply with the site plan by Charles T. Brown, P.E. last revised 09/19/2018; although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. .§ 5.21 Undersized lot provisions apply for this lot and the front yard and side yard variances are existing conditions. The property is oddly shaped and the original house was not built in the center of the lot.
6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested front yard, side yard, total side yard, rear yard and accessory structure variances for side yard and distance between structures are **APPROVED** as **MODIFIED** as follows: front yard: 16.98' approved; rear yard to addition 13.01' approved; side yard: 15.89' approved; total side yard: 70.09'; accessory structure to rear yard: 0' approved for garage; side yard: 1.62' approved for garage; accessory structure side yard for shed: 0' approved; distance between primary structure and accessory structure: 6' existing and approved for distance of garage to house; to comply with the site plan by Charles T. Brown, P.E., last revised 09/19/2018; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

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General Conditions:

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

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

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

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

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

TOWN CLERKS OFFICE
2018 OCT 24 P 2:29
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested front yard, side yard, total side yard, rear yard and accessory structure variances for side yard and distance between structures are APPROVED as MODIFIED as follows: front yard: 16.98' approved; rear yard to addition 13.01' approved; side yard: 15.89' approved; total side yard: 70.09'; accessory structure to rear yard: 0' approved for garage; side yard: 1.62' approved for garage; accessory structure side yard for shed: 0' approved; distance between primary structure and accessory structure: 6' existing and approved for distance of garage to house; to comply with the site plan by Charles T. Brown, P.E., last revised 09/19/2018; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Quinn, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: October 17, 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 24 P 2:29
TOWN CLERK'S OFFICE

DECISION

§ 5.227 REAR YARD POOL VARIANCE APPROVED

To: Sheila Maher
241 N. Middetown Road
Apt. B
Pearl River, New York 10965

ZBA #18-77
Date: October 17, 2018
Permit # 48113

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-77: Application of John Maher for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.227 (Rear Yard for a pool: 20' required, 12' existing) for an existing in-ground pool at an existing single-family residence. The premises are located at 114 Cottage Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.10, Block 1, Lot 47; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, October 17, 2018 at which time the Board made the determination hereinafter set forth.

Sheila Maher appeared and testified.

The following documents were presented:

1. Survey dated November 14, 2016 revised September 15, 2018 signed and sealed by Harold J. Goldstein, Architect.

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

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

Sheila Maher testified that she purchased the house in November 2016; that a title search was done at the time she purchased the house and came back without any violations; that she is in the process of selling the house and at first there was a problem about the house having a basement, which it does not because it is a bi-level house; that the pool was installed in 1969 and it was 12' away from the property line and now they are saying the pool is new and was moved and it should have been 20' from the property line; and that she did not change the pool or its location since she purchased the property.

Public Comment:

No public comment

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

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 §5.227 rear yard variance for a pool will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Other properties in the neighborhood have similar pool setbacks.
2. The requested §5.227 rear yard variance for a pool will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Other properties in the neighborhood have similar pool setbacks.
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 variance for a pool, 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 properties in the neighborhood have similar pool setbacks.
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.

JOHN OLENNIK'S OFFICE
2018 OCT 24 PM 2:29
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 variance for a pool 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.

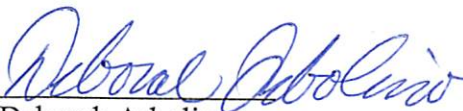
TOWN OF ORANGETOWN
2018 OCT 24 PM 2:07
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested §5.227 rear yard variance for a pool is APPROVED; was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: October 17, 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

TOWN OF ORANGETOWN
2018 OCT 24 P 2:29
TOWN CLERK'S OFFICE

DECISION

AMENDED SIDE YARD APPROVED

To: Stephen Magee
243 Edsall Terrace
Pearl River, New York 10965

ZBA #18-78
Date: October 17, 2018
Permit # 47489

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-78: Application of Stephen Magee for an amendment to ZBA#18-50 for a variance from Zoning Code (Chapter 43) of the Town of Orangetown, Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20' required, 16' requested on July 18, 2018, requesting 10.2') for an in-ground pool at an existing single-family residence. The premises are located at 243 Edsall Terrace, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.14, Block 3, Lot 34 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 17, 2018 at which time the Board made the determination hereinafter set forth.

Stephen Magee appeared and testified.

The following documents were presented:

1. Plot plan labeled "Plot Plan Proposed Pool Magee Residence" based on survey dated January 30, 2014 by Anthony Celentano, P.L.S., signed and sealed by Barbara H. Hess, Architect.
2. Six letters in support of the application.

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. Bosco, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Feroldi, aye; and Ms. Castelli, aye.

Stephen Magee testified that the he was granted a variance for a sixteen (16') foot side yard; that the pool company did not take into account the Roman ends on the pool and because of this the pool will be setback only ten point two (10.2') from the side yard. (Applicant is referring to ZBA# 18-58 dated July 18, 2018)

Public Comment:

No public comment

TOWN OF ORANGETOWN
2018 OCT 24 P 2:29
TOWN CLERK'S OFFICE

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 amended side yard variance for the pool will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Roman ends of the pool were not considered in the calculation the first time and when they were added it changed the side yard to 10.2'.
2. The requested amended side yard variance for the pool will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Roman ends of the pool were not considered in the calculation the first time and when they were added it changed the side yard to 10.2'.
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 amended side yard variance for the pool, 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 Roman ends of the pool were not considered in the calculation the first time and when they were added it changed the side yard to 10.2'.
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 CLERK'S OFFICE
2018 OCT 24 PM 2:29
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board **RESOLVED** that the application for the requested amended side yard variance for the pool 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
2018 OCT 24 P 2:29
TOWN OF ORANGETOWN

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

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

DATED: October 17, 2018

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
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