

MINUTES  
ZONING BOARD OF APPEALS  
May 4, 2016

MEMBERS PRESENT:     PATRICIA CASTELLI  
                                 MICHAEL BOSCO  
                                 THOMAS QUINN

ABSENT:                     DAN SULLIVAN  
                                 LEONARD FEROLDI, ALTERNATE  
                                 JOAN SALOMON

ALSO PRESENT:             Dennis Michaels, Esq.             Deputy Town Attorney  
                                 Ann Marie Ambrose,             Official Stenographer  
                                 Deborah Arbolino,             Administrative Aide

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:

HELMKE/ ALATSAS 69.10/ 2 / 70; R-15 zone	FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED	ZBA#16-29
LAMOND POOL 77.11 / 2 / 45; R-15 zone	SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#16-30
CARO 68.15 / 4 / 41; RG zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#16-31
CASS/LANCASTER 69.05 / 2 / 58; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#16-32
BRANT POOL 70.13 / 2 / 19; R-15 zone	CONTINUED	ZBA#16-33
HAMILTON BIOS ADDITION 68.08 / 1 / 5; LI zone	FLOOR AREA RATIO, AND LAND COVERAGE VARIANCES APPROVED	ZBA#16-34
CHRISS PERGOLA 78.18 / 1 / 10; R-80 zone	NO VARIANCES REQUIRED	ZBA#16-35

TOWN OF COVINGTON  
2016 MAY 25 PM 12 31  
TOWN CLERK'S OFFICE

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 applications: The Ice Factory, Special Permit, 1 Veterans Parkway, Pearl River, NY; 69.05 / 2 / 76; CO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

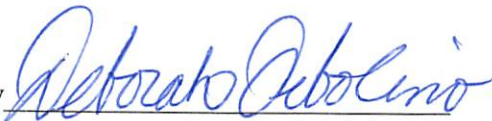
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

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

Dated: May 4, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By 

Deborah Arbolino, Administrative Aide

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

TOWN OF ORANGETOWN  
2016 MAY 25 PM 12 31  
TOWN CLERKS OFFICE

## DECISION

### FLOOR AREA RATIO, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED

To: Helmke/ Alatsas  
4 Independence Avenue  
Tappan, New York 10983

ZBA #16-29  
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 16-29: Application of Helmke/ Alatsas for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .28 proposed), 9 (Side Yard: 20' required, 15' proposed) 10 (Total Side Yard: 50' required, 31' proposed), and 12 (Building Height: 15' permitted, 25' proposed) for a new single-family residence. The premises are located at 104 South Reld Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.10, Block 2, Lot 70; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2016 at which time the Board made the determination hereinafter set forth.

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

The following documents were presented:

1. Architectural plans dated 03/26/2012 with the latest revision date of 01/22/2015 signed and sealed by Robert Hoene, Architect.
2. Plot plan dated March 22, 2016 with the latest revision date of 4/15/2016 signed and sealed by Steven Michael Sparaco, P.E., and William Youngblood, P.E..
3. A google map picture of the house and surrounding area.

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

George Alatsas testified that they are local builders; that the existing house is a Sears kit house; that it is not structurally sound enough to hold a second floor; that because of the condition of the house it is easier to knock it down and build a new house; that the existing detached garage is only four feet from the property line and this house will have an attached garage; and that they will be removing a lot of blacktop from the site.

Robert Hoene, Architect, testified that he knows about the front to back Cape style houses that Mr. Quinn is referring to; that this style house would fit better onto the lot but cannot have a garage; that the lot is only 75' wide and it is not possible to conform to yard requirements when the garage is attached to the house; that he designed the house next to this one and it also required some variances but fits into the neighborhood nicely.

Bill Helmke testified that this property sits about three feet lower than the road.

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TOWN OF ORANGETOWN  
ZONING BOARD OF APPEALS

Public Comment:

No public comment.

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

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

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested floor area ratio, side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar houses have been constructed in the area.
2. The requested floor area ratio, side yard, total side yard, and building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar houses have been constructed in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested floor area, side yard, total side yard and building height variances, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar houses have been constructed in the area.
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

2016 MAY 25 PM 12 31

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, side yard, total side yard and building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN  
2016 MAY 25 PM 12 31  
TOWN CLERKS OFFICE

The foregoing resolution to approve the application for the requested floor area ratio, side yard, total side yard and building height variances was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi 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: May 4, 2016

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-R.A.O.

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

TOWN CLERKS OFFICE  
2016 MAY 25 PM 12 31  
TOWN OF ORANGETOWN

## DECISION

### SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Keith and Megan Lamond  
4 Paul Court  
Tappan, New York 10983

ZBA #16-30  
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-30: Application of Keith and Megan Lamond for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 20' required, 18.3' proposed) and from Section 5.227 (Rear Yard: 20' required, 10' proposed) for an in-ground pool at an existing single-family residence. The premises are located at 4 Paul Court, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.11, Block 2, Lot 45; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2016 at which time the Board made the determination hereinafter set forth.

Keith and Megan Lamond appeared and testified.

The following documents were presented:

1. Site plan labeled "Pool Grading Plan for Lamond" dated 02/03/2016 signed and sealed by Chester Dilorenzo, P.E..
2. A letter dated April 26, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated April 25, 2016 from the County of Rockland Highway Department signed by Sonny Lin, P.E.

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

Keith almond testified that they have a very small rear yard; that they reduced the size of the pool to try to get it to fit in the yard; that they have a 20' rear yard and anything they put in it will require a variance; that they are asking to install a 15' wide by 30' long by 5' deep in -ground pool on the rear right side of the yard because it fits there the best; that if they put it in the middle of the rear yard it would be too close to the rear sliding doors and they would have to remove the existing patio; that they have owned the house for eight years and they have three children; and their neighbors at 1 Paul Court got a 10' side and 6' rear yard variance for their pool because they also have a small rear yard.

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

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



DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard and rear 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

2016 MAY 25 PM 12 32

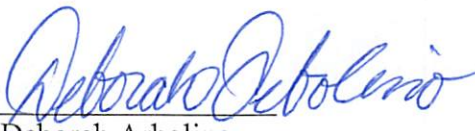
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and rear yard variances was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi 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: May 4, 2016

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-R.A.O.

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

TOWN OF ORANGETOWN  
2016 MAY 25 PM 12 32  
TOWN CLERKS OFFICE

DECISION  
SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED

To: Eddie and Janet Caro  
78 Lieutenant Cox Drive  
Pearl River, New York 10965

ZBA #16-31  
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-31: Application of the Eddie and Janet Caro for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, , Section 3.12, RG District, Group Q, Column 9 (Side Yard: 10' required, 5' existing) and 10 (Total Side Yard: 30' required, 25' proposed) for an addition and handicap ramp at an existing single-family residence. The premises are located at 78 Lieutenant Cox Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 4, Lot 41; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2016 at which time the Board made the determination hereinafter set forth.

Janet Caro appeared and testified.

The following documents were presented:

1. Architectural plans dated 02/24/2016 with the latest revision date of 04/13/2016 signed and sealed by Joseph J. Bruno, Architect (3 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 Dennis Michaels, 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 Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Mr. Sullivan, Ms. Salomon and Mr. Feroldi were absent.

Janet Caro testified that they would like to convert the existing garage into a bedroom and handicap accessible bathroom for their nine year old son that is in a wheelchair; that they are also adding a handicap ramp from the driveway to access the bedroom; that they need to raise the floor of the garage to be level with the house and they have owned the house for fourteen years.

TOWN OF ORANGETOWN  
2016 MAY 25 PM 12 32  
TOWN CLERK'S OFFICE

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 side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing five foot side yard is not changing and the construction of the handicap ramp is on the north side of the house which will maintain a 20' side yard.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing five foot side yard is not changing and the construction of the handicap ramp is on the north side of the house which will maintain a 20' side yard.
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 side yard and total 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. The existing five foot side yard is not changing and the construction of the handicap ramp is on the north side of the house which will maintain a 20' side yard.
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

2016 MAY 25 PM 12 32

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested side yard and total 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

2016 MAY 25 PM 12 32

TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and total side yard variances was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi 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: May 4, 2016

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-R.A.O.

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

TOWN CLERKS OFFICE  
2016 MAY 25 PM 12 32  
TOWN OF ORANGETOWN

DECISION

**TOTAL SIDE YARD VARIANCE APPROVED**

To: Michael Cass & Lynne Lancaster  
97 Veterans Parkway  
Pearl River, New York 10965

ZBA #16-32  
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-32: Application of Michael Cass and Lynne Lancaster for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 10 (Total Side Yard: 50' required, 33.5' proposed) for a second story dormer at an existing single-family residence. The premises are located at 97 Veterans Parkway, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 2, Lot 58; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2016 at which time the Board made the determination hereinafter set forth.

Michael Cass and Lynne Lancaster appeared and testified.

The following documents were presented:

1. Site plan.

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

On advice of Dennis Michaels, 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 Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Mr. Sullivan, Mr. Feroldi and Ms. Salomon were absent.

Michael Cass testified that they are proposing to add a second story dormer to the front and rear of the existing house to enable them to have a full bedroom and bathroom on the second floor of the house; that the footprint of the house is not changing and the existing total side yard is 33.5'.

TOWN CLERK'S OFFICE

2016 MAY 25 PM 12 32

TOWN OF ORANGETOWN

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 total side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The total side yard of 33.5' is not changing and the applicant is adding two second story dormers.
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 total side yard of 33.5' is not changing and the applicant is adding two second story dormers.
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 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 total side yard of 33.5' is not changing and the applicant is adding two second story dormers.
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 variance.

TOWN OF ORANGETOWN  
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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.

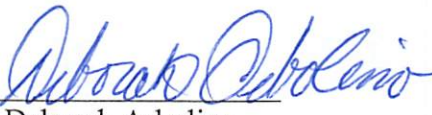
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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested total side yard variance was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi 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: May 4, 2016

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-R.A.O.

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

TOWN OF ORANGETOWN  
2016 MAY 25 PM 12 32  
TOWN CLERKS OFFICE

## DECISION

### FLOOR AREA RATIO, AND LAND COVERAGE VARIANCES APPROVED

To: Ed Bennett (Hamilton Bios) Pfizer  
401 N. Middletown Road  
Pearl River, New York 10965

ZBA #16-34  
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-34: Application of the Hamilton Bios Addition (Pfizer Site Plan Building #222) for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District refers to LI District, Group QQ, Column 4 (Floor Area Ratio: .50 permitted, .531 proposed) and from notes to use and bulk tables, note #14 Maximum Land Coverage: (80% permitted in the LI Zone; 89.34% proposed) for an addition to an existing building. The premises are located at 401 North Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.08, Block 1, Lot 5; in the LI zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2016 at which time the Board made the determination hereinafter set forth.

Donn McMullen, Pfizer, Steven Green, Architect Designer, and Vu Ly. Santect Engineer, appeared and testified.

The following documents were presented:

1. Architectural plans dated 01/13/2016 with the latest revision date of 02/19/2016 (15 pages) signed and sealed by Joseph F. Masiello, P.E..
2. A letter dated March 23, 2016 from John Giardiello, Director, OPZPAE.
3. Zoning Board Decision #14-25 dated April 16, 2014.
4. A letter dated April 25, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated May 4, 2016 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.
6. A letter dated April 7, 2016 from the Town of Clarkstown signed by Rudolph J. Yacyshyn, Vice Chair.
7. A letter dated April 4, 2016 from the Rockland County Department of Health signed by Scott McKane, P.E., Senior Public Health Engineer.

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

On advice of Dennis Michaels, 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 this application, pursuant to coordinated review under State Environmental Quality Review Act Regulation § 617.6 (b)(3); and since the Planning Board conducted a SEQRA review and , on March 23, 2016, rendered an environmental determination of no significant adverse environmental impacts to result from the proposed land use action (i.e. "Negative Declaration" of "Neg. Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulation §617.6 (b) (3). The motion was seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Quinn, aye. Mr. Sullivan, Ms. Salomon and Mr. Feroldi were absent.

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Donn McMullen testified that this project is a Pfizer project; that two years ago the property was subdivided and this site is on the 22.9 acre portion of the subdivided property; that it is part of the 222 building, which is 186,000 sq. ft.; that he Planning board approved the 4,000 sq. ft. addition to the building that will house a robotic freezer; that they presently store millions of samples of blood, vaccines and urine and other samples, frozen; that this new robotic system will allow storage and retrieval of these samples to happen more efficiently; that a scientist will now enter the building and press a few buttons and a robotic system will either take the sample and store it or retrieve a sample for the scientist; and that this is a complex expensive warehouse that will help with the vaccine research taking place on site.

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 and land coverage variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The robotic storage freezer will increase efficiency at the research facility without changing the character or physical or environmental conditions, of the neighborhood.
2. The requested floor area ratio and land coverage variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The robotic storage freezer will increase efficiency at the research facility without changing the character or physical or environmental conditions of the neighborhood.
3. The applicant has agreed to satisfy the conditions of the Rockland County Department of Planning letter dated April 25, 2016 signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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5. The requested floor area ratio and land coverage 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 robotic storage freezer will increase efficiency at the research facility without changing the character or physical or environmental conditions, of the neighborhood.
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 floor area ratio and land coverage variances are APPROVED with the Specific Condition that the applicant satisfy the conditions set forth in the letter dated April 25, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.
- (iv) A building permit as well as any other necessary permits must be obtained within a reasonable period of time following the filing of this decision and prior to undertaking any construction contemplated in this decision. To the extent any variance or Special Permit granted herein is subject to any conditions, the building department shall not be obligated to issue any necessary permits where any such condition imposed should, in the sole judgment of the building department, be first complied with as contemplated hereunder. Occupancy will not be made until, and unless, a Certificate of Occupancy is issued by the Office of Building, Zoning and Planning Administration and Enforcement which legally permits such occupancy.

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

The foregoing resolution to approve the application for the requested floor area ratio and land coverage variances with the Specific Condition that the applicant satisfy the conditions set forth in the letter dated April 25, 2016 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi 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: May 4, 2016

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 CLERKS OFFICE

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## DECISION

### **SIDE YARD AND TOTAL SIDE YARD VARIANCES NOT REQUIRED FOR AN ARBOR: DOES NOT REQUIRE A BUILDING PERMIT**

To: William Bosley (Chriss arbor)  
12 Sugarhill Road  
Nyack, New York 10960

ZBA #16-35  
Date: May 4, 2016

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#16-35: Application of Neil Chriss for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, , Section 3.12, R-80 District, Group A, Column 9 (Side Yard: 30' required, 12' proposed) and 10 (Total Side Yard: 100' required 51.8' proposed) for an arbor. The premises are located at 49 Woods Road, Palisades, New York and are identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 10; in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 4, 2016 at which time the Board made the determination hereinafter set forth.

William Bosley, contractor and Daniel Sherman, Landscape Architect, appeared and testified.

The following documents were presented:

1. Site plan signed and sealed by Daniel Sherman, Landscape Architect dated December 9, 2015.
2. A letter dated March 29, 2016 from Dan Sherman.
3. Five computer generated pictures of the rear yard.
4. Three pages of hand drawn details of the arbor.

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

Bill Bosley testified that he has an active building permit for the pool and the terraces on the property; that he went into the building department to amend the permit and add an arbor and requested to go before the Historic areas board of review for the review of the arbor; that the building inspector told him that he needed a variance for the arbor; that he would argue that the code states that an arbor does not require a building permit and he went over the code Sections 5.221 and 10.221.

Dan Sherman, a NYS licensed Landscape Architect, testified that, in his expert opinion, the proposed structure is an arbor, and the arbor is not a structure that requires a building permit: that the Code is clear on that, as described in his 03/29/2016 narrative, and that the structure will serve to shade part of the patio and be planted well.

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Public Comment:

Joan Lehman, 43 Woods Road, testified that she has been here before when the previous owners of the property were before the Board; that she was assured by the Chriss's that they would not be asking for variances and lo and behold she gets this letter; that they did say that they would withdraw the application if they need a variance; that she likes her new neighbors very much but the property is overbuilt and clogged with an enormous house and enormous barn a large pool downhill toward Corbett Lane and it is constipated and the view from 43 Woods is a compound under construction setting an extremely negative precedent; that there was never a variance granted on Woods Road and this is overbuilt and busting out from all sides and some people are just greedy.

Bill Bosley, once again stated that if a variance is needed the application will be withdrawn.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The proposed structure is an arbor, and therefore, the requested side yard and total side yard variances are **not** necessary because a building permit is not required for an arbor, pursuant to Zoning Code § 5.221 and §10.221.

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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 side yard and total side yard variances are NOT REQUIRED because a building permit is not required for an arbor; 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 acknowledge that the requested side yard and total side yard variances are **not required** for the proposed structure because a building permit is not required for an arbor; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; and Ms. Castelli, aye. Ms. Salomon, Mr. Feroldi 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: May 4, 2016

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
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MGMT. and ENGINEERING  
FILE,ZBA, PB  
CHAIRMAN, ZBA, PB, ACABOR

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