

MINUTES  
ZONING BOARD OF APPEALS  
NOVEMBER 5, 2014

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

ABSENT:                         NONE

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 Mr. Sullivan, Chairman.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

AMENDED ITEM:

SIRAGUSA	FRONT YARD	ZBA#14-54A
68.12 / 3 / 34; RG zone	AMENDMENT APPROVED	

CONTINUED ITEM:

VESEY	WITHDRAWN	ZBA#14-68
69.18 / 3 / 11; R-15 zone		

NEW ITEMS:

ROONEY	REAR YARD	ZBA#14-76
68.12 / 5 / 61; RG zone	VARIANCE APPROVED	

MUHAMETAJ	LOT WIDTH, FRONT	ZBA#14-77
77.12 / 1 / 71; R-15 zone	YARD, SIDE YARD, TOTAL	
	SIDE YARD AND BUILDING HEIGHT	
	VARIANCES APPROVED	

THE SALOON	FLOOR AREA RATIO,	ZBA#14-78
68.16 / 1 / 9; CC zone	SIDE YARD, BUILDING HEIGHT,	
	AND PARKING VARIANCES APPROVED	

DAYTOP VILLAGE	PERFORMANCE STANDARDS	ZBA#14-79
GENERATOR PERFORMANCE	APPROVED	
STANDARDS		
65.14/ 1 / 10; LI/ LIO zone		

TOWN OF ORANGETOWN  
2014 NOV 26 AM 9 20  
TOWN CLERKS OFFICE

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairman, Patricia Castelli, 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: Miller minor Subdivision, 238 West Crooked Hill Road, Pearl River, New York 68.11 / 3 / 16; R-15 zone;, and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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

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

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

Dated: November 5, 2014

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  
2014 NOV 26 AM 9 21  
TOWN CLERKS OFFICE

DECISION  
**FRONT YARD VARIANCE APPROVED**

To: Basil Siragusa  
11 Charles Street  
Pearl River, New York 10965

ZBA # 14-54A  
Date: November 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-54A: Application of Basil Siragusa for an amendment to ZBA#14-54 which requested a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Group Q, Column 8 (Front Yard: 25' required, 22' proposed & granted, 18.9' proposed) to cover an existing stoop and stairs at an existing single-family residence. The premises are located at 11 Charles Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.12, Block 3, Lot 34; RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 5, 2014 at which time the Board made the determination hereinafter set forth.

Basil Siragusa appeared and testified.

The following documents were presented:

1. Survey and original drawing and revised drawing for the roof over the steps.
2. Zoning Board of Appeals Decision #14-54 dated July 16, 2014.
3. A revised building department referral dated 9/16/2014.

Mr. Sullivan, Chair, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

Basil Siragusa testified that the front yard variance that he received was to cover the existing landing to his house; that when the contractor started to dig to do the job, he realized that he could not put footings in at that spot; that they are asking to put the footings in at the end of the stairs and therefore they need to encroach a little further into the front yard.

TOWN CLERKS OFFICE  
2014 NOV 26 AM 9 21  
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 amendment to the front yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The additional three feet and three inches encroachment into the front yard to cover all of the existing stairs will make the entryway safer for the applicants in inclement weather.
2. The requested amendment to the front yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The additional three feet and three inches encroachment into the front yard to cover all of the existing stairs will make the entryway safer for the applicants in inclement weather.
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 amendment to the front yard variance, although somewhat substantial, affords benefits to the applicants that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The additional three feet and three inches encroachment into the front yard to cover all of the existing stairs will make the entryway safer for the applicants in inclement weather.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE

2014 NOV 26 AM 9 21

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested amendment to the front yard variance from a 22' setback to a 18'9" setback 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.

2014 NOV 26 PM 9 21

TOWN OF ORANGETOWN


Siragusa  
ZBA#14-54A  
Page 4 of 4

The foregoing resolution to approve the application for the requested amendment to the front yard variance from a 22' setback to a 18' 9" setback was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Salomon, 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: November 5, 2014

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 CLERKS OFFICE  
2014 NOV 26 AM 9 21  
TOWN OF ORANGETOWN

MINUTES  
**WITHDRAWN REQUEST FOR SINGLE-FAMILY CONVERSION/ REFERRED  
AS SECTION 3.11, REFER TO R-80, COL.2 #1**

To: Jonathan Hodash (Vesey)  
60 S. Main Street  
New City, New York 10956

ZBA # 14-68  
Date: November 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-68: Application of Thomas Vesey for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.11, R-15 District, Group M, Column 2 refers to R-80 District, Column 2 #1 (Single family detached residence permitted, two-family residence proposed) and from Section 3.12, R-15 District, Group M, Column 4 (Floor Area Ratio: .20 permitted, .257 proposed; granted on Sept. 17, 2014), and 11(Rear Yard: 35' required, 22.4' proposed; granted on September 17, 2014) for a new residence with an additional dwelling unit. The premises are located at 25 Garrecht Lane, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 11; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 5, 2014 at which time the Board made the determination hereinafter set forth.

Thomas Vesey and Jonathan Hodash, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans and site plan dated August 5, 2014 signed and sealed by Jonathan Hodosh, Architect. (8 pages)
2. A letter dated September 14, 2014 from Dawn Dennis, 41 Elm Street, Patricia Altomare, 32 West Naurausaun Avenue, Thomas Vesey, 31 Garrecht Lane, Steven Bruni, 24 Sunrise Lane, Charlie & Marylou Scott, 30 Sunrise Lane, Cornelius O'Keefe, 22 West Naurausaun Avenue, Patrick Desmond, 520 Orangeburg Road, Michael Fahy, 33 West Naurausaun Avenue, Steven DeThomas, 32 Elm Street, John Dick, 37 Garrecht Lane, Catherine Small, 6 Elm Street, Kristoffer McArdle, 24 Elm Street, Dennis Gilligan 42 Garrecht Lane, Bernard Gallagher, 45 West Naurausaun Avenue, Louise Jeane Mocerino, 530 Orangeburg Road, Ellinor and Horst Tiepolt, 41 West Naurausaun Avenue, Michael Dinot, 44 West Naurausaun Avenue, Bob Scarf, 51 West Naurausaun Avenue, Maurice O'Sullivan, 27 Garrecht Lane, Bridgid Roberts, 40 West Naurausaun Avenue, James MacRobbie, 552 Orangeburg Road, Wendy MacRobbie, 552 Orangeburg Rd, (Pearl River).
3. A letter dated September 16, 2014 from Jonathan Hodosh, NCARB, President of George Hodosh Associates – Architects, P.C.
4. Copy of Property Survey titled "Survey of Property #25 Garrecht Lane", Dated November 16, 2009 signed by Stephen Hoppe, L.S.
5. Two photos of the existing house as it is viewed from the street and back yard.

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

Jonathan Hodash testified that he sent a letter to John Giardiello in the building department after discussing the application with Dennis Michaels, Deputy Town Attorney, amending the application and asking for approval of a "single-family conversion" pursuant to Section 4.5 of the Orangetown Zoning Code; that he would be seeking exceptions from three of the eight criteria of Local Law 7; (1) the house must be at least 15 years old, (2) the owner who converts the dwelling must reside in the house for at least 15 years and (3) there shall be no significant exterior change and no new structures built on the property within the past 10 years; and that after listening to the

TOWN OF ORANGETOWN

2014 NOV 26 AM 9 21

TOWN CLERKS OFFICE

Board, they will withdraw the application for the second dwelling unit.

Mr. Vesey testified that he purchased the house one year ago; that the house was in bad shape and cannot be saved; that his wife had a bad stroke and he wants to build this house to live with one of his daughters and the other daughter lives down the street at 57 Naurashaun; that both his daughters are nurses and they will help care for their mother, so that she will not have to go into a nursing home; and that they will withdraw the application and modify the plans.

Dan Sullivan stated that the three criteria that the applicant wants the Board to grant variances from are, in his opinion, key to the reason the law was created; that it was created to allow long- time residents to stay in their homes as they aged; that the key word is conversion versus new; that the law was created to allow people to stay in their homes, either in the 600 sq. apartment or the large part of the house, depending on their economic needs; that the applicants' need is not economic, because they purchased a house and knocked it down; that he does not see this as a conversion; that if they allow this to fall under Local Law 7, everyone will be buying houses and knocking them down to build new "owner-occupied" houses.

Ms. Castelli stated that the "conversion" did not exist in this case and the rest of the Board agreed.

Mr. Bosco suggested that the house be built without the second kitchen and the family continue to help each other.

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.

TOWN CLERKS OFFICE  
2014 NOV 26 AM 9 21  
TOWN OF ORANGETOWN




**The applicant withdrew the application and stated that he would modify the plans.**

The Administrative Aide to the Board is hereby authorized, directed and empowered to sign these minutes (no decision rendered) and file a certified copy thereof in the office of the Town Clerk.

DATED: November 5, 2014

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  
2014 NOV 26 AM 9 21  
TOWN CLERKS OFFICE

DECISION  
**REAR YARD VARIANCE APPROVED**

To: Peter and Dorothy Rooney  
24 Forest Avenue  
Pearl River, New York 10965

ZBA # 14-76  
Date: November 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-76: Application of Peter and Dorothy Rooney for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, Group Q, Column 11 (Rear Yard: 25' required, 19.5' proposed) for an addition to a single-family residence. The premises are located at 24 Forest Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.12, Block 5, Lot 61; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 5, 2014 at which time the Board made the determination hereinafter set forth.

Peter and Dorothy Rooney appeared and testified.

The following documents were presented:

1. Architectural plans and site plan dated October 14, 2014 signed and sealed by Robert Hoene, Architect. (2 pages)

Mr. Sullivan, Chair, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

Peter Rooney testified that they would like to expand the existing kitchen and add a new deck; that they have owned the home since 1996; that they love the neighborhood and want to stay in the house but need a little extra room; that the lot is an undersized lot and they would appreciate any consideration the Board could offer.

TOWN OF ORANGETOWN  
2014 NOV 26 PM 9 21  
TOWN CLERKS 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 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the area.
2. The requested rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions 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 a variance.
4. The requested rear yard variance is not substantial.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE  
NOV 26 AM 9 21  
TOWN OF ORANGETOWN

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

General Conditions:

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

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

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

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

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


TOWN CLERKS OFFICE  
2014 NOV 26 PM 9 21  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested rear yard variance was presented and moved by Ms. Salomon, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, 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: November 5, 2014

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 CLERKS OFFICE  
2014 NOV 26 AM 9 21  
TOWN OF ORANGETOWN

DECISION  
**LOT WIDTH, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND  
BUILDING HEIGHT VARIANCES APPROVED**

To: Jane Slavin (Muhametaj)  
200 Erie Street East  
Blauvelt, New York 10913

ZBA # 14-77  
Date: November 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-77: Application of Sami Muhametaj for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 6 (Lot Width: 100' required, 73' existing) 8 (Front Yard: 30' required, 10' proposed); 9 (Side Yard: 20' required, 8.7' proposed) and 10 (Total Side Yard: 50' required, 37.1' existing, 35.9' proposed); 12 (Building Height: 10' permitted, 25'9" proposed) for an addition to an existing single-family residence. The premises are located at 376 Washington Road, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 71; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 5, 2014 at which time the Board made the determination hereinafter set forth.

Sami Muhametaj and Jane Slavin, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans and site plan dated July 23, 2014 with the latest revision date of September 3, 2014 signed and sealed by Jane Slavin, Architect. (3 pages)
2. A survey dated September 12, 2014 signed and sealed by Stephen F. Hoppe, L.S..
3. A revised survey submitted at the meeting dated September 13, 2014 with the latest revision date of 10/30/2014 signed and sealed by Stephen F. Hoppe, L.S.
4. A letter dated October 30, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..
5. A letter dated October 30, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

Mr. Sullivan, Chair, 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, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (9), (10), (12) and/or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

Jane Slavin, Architect, testified that she has a revised survey that was just completed and some of the measurements change because they are taken to the overhang on the second floor; that the house is a cottage style house and the existing second floor is only 250 sq. ft.; that they are expanding it to 995 sq. ft. and they are adding 150 sq. ft. to the first floor by squaring it off; that the existing side yard is 8.3 and the new proposed side yard is 8' to the cantilever; the front yard is 10.7' to the existing front porch; that the proposed total side yard will be 36.6' and that it is a small house compared to the size of the lot.

TOWN CLERKS OFFICE  
2014 NOV 26 AM 9 21  
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 lot width, front yard, 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. Some of the requested variances are for existing non-conforming conditions and the proposed addition is in keeping with the character of the neighborhood.
2. The requested lot width, front yard, 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. Some of the requested variances are for existing non-conforming conditions and the proposed addition is in keeping with the character of the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested lot width, front yard, 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. . Some of the requested variances are for existing non-conforming conditions and the proposed addition is in keeping with the character of the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

TOWN CLERKS OFFICE  
2014 NOV 26 AM 9 21  
TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested lot width, front yard, 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.

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2019 NOV 26 PM 9 21  
TOWN OF ORANGETOWN



The foregoing resolution to approve the application for the requested lot width, front yard, side yard, total side yard and building height variances was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ;Ms. Castelli, aye; Mr. Sullivan, aye; and Ms. Salomon, 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: November 5, 2014

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

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2014 NOV 26 AM 9 21  
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DECISION  
**FLOOR AREA RATIO, SIDE YARD, BUILDING HEIGHT, AND OFF-STREET  
PARKING VARIANCES APPROVED**

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

ZBA # 14-78  
Date: November 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-78: Application of The Saloon for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, Group JJ, Columns 4 (Floor Area Ratio: .30 permitted, .57 existing, .85 proposed) , 9 (Side Yard: 0' or 12' required, 6.7' exists, 5.2 proposed) and 12 (Building Height: 22' permitted, 26' existing, 31.7 proposed) and from Section 3.11 CC District refers to CS District Section 3.11, Column 6 # 5 (Parking: 40 spaces required, 0 spaces provided) for an addition to an existing restaurant. The sheds must be removed. The premises are located at 45-49 West Central Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 1, Lot 9; in the CC zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 5, 2014 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Bridget Killen, owner, and Barbara Marks, Architect, appeared and testified.

The following documents were presented:

1. Architectural plans and site plan dated March 26, 2014, with the latest revision date of September 11, 2014, signed and sealed by Barbara Marks, Architect. ( 5 pages)
2. A letter dated October 15, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
3. A letter dated November 1, 2013 from the County of Rockland Drainage Agency signed by Vincent Altieri.
4. A letter dated October 28, 2014 from the County of Rockland Department of Highways signed by Sonny Lin, P.E..

Mr. Sullivan, Chair, 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, Mr. Sullivan moved for a Board determination that since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.6 (b) (3); and since the Planning Board conducted a SEQRA review and, on June 11, 2014, rendered an environmental determination or no significant adverse environmental impacts to result from the proposed land use action (i.e., a "Negative Declaration" or "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 Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Mr. Bosco, aye.

Donald Brenner, Attorney, testified that the building has been through a lot since

TOWN OF ORANGETOWN  
2014 NOV 26 AM 9 21  
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Bridget Killen purchased it; that there were a lot of problems after Super Storm Sandy; that they are proposing to develop the second floor for use with an elevator for handicap accessibility; that they have received a neg dec from the Planning Board and a preliminary approval; that the parking is an issue for the entire downtown area; that the Planning Board does not want to stop business's from developing because of parking; that they are presently negotiating with the MTA for use of their lot for 40 spaces after 5:00 P.M and with Bertussi for use of his lot.; that the elevator will go to the third floor deck area; that they plan to use the deck in the summer; that they have met all of the drainage requirements and have sewer approval; that the driveway is only used for deliveries; that the storage trailers will be removed; and that they are not applying for the roof top generator on this permit.

Barbara Marks testified that the back of the building height is 44.1' that the proposed height of the paraffin is 37.6' add the glass and the height is 39.2'.

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, building height, and off-street parking variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Although the emergency generator is shown on the plan, it is not part of this application and has not been considered for approval. The requested building height variance, although substantial, will not loom over buildings in the area because this building is at the bottom of a hill at the edge of the main road through the hamlet.
2. The applicant has agreed to remove the sheds/ storage trailers shown on the site plan.
3. The requested floor area ratio, side yard, building height and off-street parking variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Although the emergency generator is shown on the plan, it is not part of this application and has not been considered for approval. The requested building height variance, although substantial, will not loom over buildings in the area because this building is at the bottom of a hill at the edge of the main road through the hamlet.

4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. . Although the emergency generator is shown on the plan, it is not part of this application and has not been considered for approval. The requested building height variance, although substantial, will not loom over buildings in the area because this building is at the bottom of a hill at the edge of the main road through the hamlet.
5. The requested floor area ratio, side yard, building height and off-street parking 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.
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, side yard, building height and off-street parking variances are APPROVED with the specific condition that the sheds/ storage trailers shown on the site plan be removed prior to issuance of a certificate of occupancy; and the Board overrides the conditions of the Rockland County Planning Department's letter dated October 15, 2014 #4, #5 & #6; and notes that the emergency generator shown on the roof is not part of the this application and has not been reviewed or 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 the 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.

TOWN OF ORANGETOWN  
2014 NOV 26 AM 9:22  
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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, side yard, building height and off-street parking variances and override of #4, #5, & #6 of the letter dated October 15, 2014 from the County of Rockland Department of Planning; with the Specific Notation that the emergency generator shown on the plans was not reviewed or approved as part of this application; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye ; Ms. Salomon, aye; Ms. Castelli, aye; and Mr. Sullivan, aye.

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

DATED: November 5, 2014

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

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2014 NOV 26 AM 9 22  
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DECISION  
**PERFORMANCE STANDARDS APPROVED**

To: Craig Cody (Daytop)  
16 Chestnut Street Suite 220  
Foxboro, Mass. 02035

ZBA # 14-79  
Date: November 5, 2014

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#14-79: Application of Daytop Village Foundation for Performance Standards Review under Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 4.1, for the installation of a generator. The premises are located at 620 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.14, Block 1, Lot 10; LI/LIO zoning districts.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, November 5, 2014 at which time the Board made the determination hereinafter set forth.

Craig Cody, Agent, appeared and testified.

The following documents were presented:

1. Plans labeled "Backup Power Project ATC Site Identification Site Number 307154" signed and sealed by Scott N. Adams, P.E.. (8 pages)
2. Use Subject to Performance Standards Resume of Operations and Equipment form and Fire Prevention Supplement form.
3. A letter dated October 7, 2014 from the Town of Orangetown, Department of Environmental Management and Engineering signed by Joseph J. Moran, P.E., Commissioner.
4. A memorandum dated October 20, 2014 from the Town of Orangetown, Bureau of Fire Prevention signed by Michael B. Bettmann, Chief Fire Inspector.
5. A letter dated October 31, 2014 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated October 20, 2014 from the County of Rockland 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 Ms. Salomon and carried unanimously.

On advice of Dennis Michaels, 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, since the application entails the ZBA engaging in a review to determine compliance with technical requirements, 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) (28); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Quinn, aye; Ms. Salomon, aye; Ms. Castelli, aye; Mr. Bosco, aye; and Mr. Sullivan, aye.

Craig Cody, testified that the wireless telecommunications facility at 620 Route 303 needs an emergency generator; that the generator has a 300 gallon self-contained tank that there is no additional fuel stored in the area; that sound calculations were estimated at 7.1 dbs. at full load; and that the generator will have weekly testing.

The Performance Standards Resume of Operations and Equipment, and the Fire Prevention Supplement completed by the applicant were thereupon reviewed in detail.

TOWN CLERKS OFFICE  
2014 NOV 26 AM 9:22  
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. Salomon and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

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

Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated October 7, 2014 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.) concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to Orangetown Zoning Code § 4.1 Performance Standards, and the memorandum dated October 20, 2014 from Michael Bettmann, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); the other documents presented to the Board and the testimony of applicant's representatives, the Board finds and concludes that conformance with the Performance Standards set forth in Zoning Code Section 4.1 will result sufficient to warrant the issuance of a Building Permit and/or Certificate of Occupancy, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, DEME, and Orangetown B.F.P., and all other departments having jurisdiction of the premises.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the **SPECIFIC CONDITION** that the applicant adhere to all of the requirements set forth by the Chief Fire Inspector, Town of Orangetown 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.

**General Conditions:**

(i) The approval of any variance, Performance Standards, 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.

TOWN CLERKS OFFICE

2014 NOV 26 AM 9 22

TOWN OF ORANGETOWN



(ii) Any approval of a variance, performance Standards, 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, Performance Standards, 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, Performance Standards, 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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2019 NOV 26 PM 9 22

TOWN OF ORANGETOWN




The foregoing resolution to approve, with aforesaid conditions, the application for Zoning Code § 4.1 Performance Standards Conformance was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Mr. Quinn, aye; Mr. Bosco, 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: November 5, 2014

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
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2014 NOV 26 PM 9 22  
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