

MINUTES  
ZONING BOARD OF APPEALS  
JUNE 20, 2012

MEMBERS PRESENT:           WILLIAM MOWERSON  
                                  JOAN SALOMON  
                                  PATRICIA CASTELLI  
                                  NANETTE ALBANESE  
                                  DANIEL SULLIVAN  
                                  MICHAEL BOSCO, ALTERNATE

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. Mowerson, Chairman.

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:

KALINOSKI 5 / 40; RG zone	SIDE YARD AND FRONT YARD VARIANCES APPROVED	ZBA#12-35 68.15 /
TEMPLE ISREAL MEMORIAL PARK ROADWAY EXTENSION 69.20 / 2 / 28; R-15 zone	SPECIAL PERMIT GRANTED	ZBA#12-36
MANNION 78.17 / 1 / 26; R-15 zone	TOTAL SIDE YARD VARIANCE APPROVED	ZBA#12-37
CRESTRON GENERATOR 77.05 / 1 / 37; LIO zone	PERFORMANCE STANDARDS APPROVED	ZBA#12-38
TRI-STATE FLOOR COVERING 70.14 / 2 / 43; CS zone	REAR YARD, §3.11, COLUMNS 2 (BUFFER) AND 6 (PARKING) APPROVED	ZBA#12-39
MC CORMACK 69.07 / 1 / 23; R-40 zone	CONTINUED	ZBA#12-40
O'SULLIVAN 74.13 / 2 / 29; R-22 zone	SIDE YARD BVARIANCE APPROVED	ZBA#12-41
WICKS 68.16 / 3 / 17; RG zone	§ 5.227 REAR YARD VARIANCE APPROVED	ZBA#12-42

ADDITIONAL 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: Virginia Homes Subdivision Plan, south side of William Street and Sparkill Ave., Sparkill, NY 77.08 / 5 / 33.2 & 36; RG zone; 67 Tweed Boulevard, Upper Grandview, NY 71.13 / 1 / 36; R-22 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 10:30 P.M.

#### DECISION

#### SIDE YARD AND FRONT YARD VARIANCES APPROVED

To: Laurie Kalinoski

ZBA # 12-35

85 West Washington Avenue  
Pearl River, New York 10965

Date: June 20, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-35: Application of Laurie Kalinoski for variances from Chapter 43 (Zoning), Section 3.12, RG District, Group Q, Columns 8 (Front Yard: 25' required, 10' existing, 14' proposed) and 9 (Side Yard: 10' required, 4' existing) for the addition of a deck at an existing single-family residence. The premises are located at 85 West Washington Avenue, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.15, Block 5, Lot 40 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Laurie Kalinoski and Joanne DiLorenzo, Landscape Architect, appeared and testified.

The following documents were presented:

1. Site plan (2 pages) showing existing conditions and proposed addition.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson 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. Albanese and

carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Joanne DiLorenzo, Landscape Architect, testified that the proposal is to replace the back porch; that it is 30 years old and in poor condition; that they would like to replace it with a 78 sq. ft. deck and below that a bluestone patio; that the house is on an undersized lot that has two front yards; that the lot is 34' wide at one end and 38' wide at the other end.

Laurie Kalinoski testified that she purchased the house 12 years ago; that the house was built in 1925; that the property was subdivided prior to her purchasing the house; that the 4' side yard is an existing condition; and that the proposal is going to improve the look of the entry.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested front yard and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicants' lot is undersized and has two front yards. The side yard is an existing condition and the proposed front yard is encroaching less than the existing front yard.
2. The requested front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicants' lot is undersized and has two front yards. The side yard is an existing condition and the proposed front yard is encroaching less than the existing front 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 front yard and side yard variances, although somewhat substantial, and 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 applicants' lot is undersized and has two front yards. The side yard is an existing condition and the proposed front yard is encroaching less than the existing front 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.

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

The foregoing resolution to approve the application for the requested front yard and side yard variances was presented and moved by Ms. Albanese, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

DECISION

SPECIAL PERMIT GRANTED

To: Lawrence Kintisch (Temple Israel Memorial Park)

ZBA # 12-36

208 Hilltop Drive

Date: June 20, 2012

Upper Nyack

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 12-36: Application of Temple Israel Memorial Park for Special Permit § 4.31 of Orangetown Code, pursuant to Chapter 43 (Zoning), Section 3.11, R-15 District, Column 3, refers to R-80 District Part II, Column 3 Item #10 ( Cemeteries on plots of 10 acres or less, adjacent to an established cemetery or place of worship). The site is located on the west side of VanWyck Road, 100 feet south of the intersection of Blauvelt Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 69.20, Block 2, Lot 28; R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Lawrence Kintisch appeared and testified.

The following documents were presented:

1. Plan labeled “ Proposed Driveway Extension & Grading Plan” Temple Israel Memorial Park dated 1/24/2012 signed and sealed by Thomas W. Skrable, P.E..
2. Three page drainage report submitted by Thomas Skrable., P.E..

Mr. Mowerson, 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, Mr. Mowerson 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 the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.6 (b) (3); and since the Planning Board conducted SEQRA review and on May 9, 2012, rendered environmental determinations of No significant adverse environmental impacts to result from the proposed land use actions (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 Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Lawrence Kintisch testified that he is a volunteer from the Temple working on the non-profit cemetery; that the cemetery was purchased in 1934, before there were any zoning regulations; that they are proposing an extension of the roadway 140’ west; that they need a Special Permit to do this work; that they have submitted drainage calculations to the Town Engineer for his review; that they will be marking some graves and saving the pauper graves; that they own 7 ½ acres and presently occupy 1 ½ acres; that they are expanding another 1/3 of an acre on either side of the roadway; that the rest of the property will remain forest; that they average between 12 and 20 graves a year; and that in 1972 they sold some of the cemetery to Beth Am Temple; that they manage their own burials; that the construction and engineering work is being done by Temple Israel Memorial Park

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. Mowerson 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 application satisfied the special findings set forth in Zoning Code § 4.31, and that the benefits to the applicant if the Special Permit is 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 cemetery existed before the Zoning Code was adopted and this is the first time that they are expanding or making any changes. The requested Special Permit for the proposed use as described by the applicant will be appropriately located with respect to transportation, water supply, waste disposal, fire and police protection and other public facilities.
2. The proposed use will not cause undue traffic congestion or create a traffic hazard.
3. The proposed use will not create, at any point of determination set forth in §§ 4.16, 4.17 and 4.18, any more dangerous and objectionable elements referred to in § 4.11 than is characteristic of the uses expressly permitted as of right in the same zoning district.
4. The requested Special Permit will not adversely affect the character of or property values in the area and will not otherwise impair the public health, safety, morals, convenience, comfort, prosperity and other aspects of the general welfare of the Town.
5. The proposed use will comply with all other regulations applicable to such use. A proposed plan showing the size and location of the lot, design and location of the proposed facilities and a detailed description thereof must be submitted to the Planning Board in accordance with the rules prescribed by that Board.
6. The applicant has stated on the record that it is not the deeded owner of the square shaped parcel located in the north center of the subject lot 28 (indicated as owned by Beth Am Temple Cemetery), that no improvements are proposed by the applicant in this parcel as part of the Application and that no request is being made for a Special Permit Use for this parcel. Consequently, the ZBA has not reviewed, nor is the ZBA granting or approving a Special Permit use for the said square shaped parcel located in the north center of the subject lot 28
7. Before any Special Permit is granted, the Applicant must secure approval of the proposed drainage structure by the Town Engineer or the consulting engineers for the Town of Orangetown.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested Special Permit is **GRANTED**; 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.

The foregoing resolution to approve the application for the requested Special Permit was presented and moved by Ms. Castelli, seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

#### DECISION

#### TOTAL SIDE YARD VARIANCE APPROVED

To: Thomas Mannion

ZBA # 12-37

28 Horne Tooke Road  
Palisades, New York 10964

Date: June 20, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-37: Application of Thomas Mannion for a variance from Chapter 43 (Zoning), R-15 District, Group M, Column 10 (Total Side Yard: 50' required, 45.7' proposed) for the addition of a master suite to replace an existing damaged sunroom, at an existing single-family residence. The premises are located at 28 Horne Tooke Road, Palisades, New York and identified on the Orangetown Tax Map as Section 78.17, Block 1, Lot 26, in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Thomas Mannion appeared and testified.

The following documents were presented:

1. Site Plan.
2. Architectural plans dated 8/2/2011 signed and sealed by Robert Hoene, Architect.

Mr. Mowerson, 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, Mr. Mowerson 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. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Thomas Mannion testified that he and his wife purchased the property two years ago; that the house was inspected and the inspector did not find that the existing sunroom was infested with carpenter ants; that the sunroom needs to come down and they would like to rebuild on the existing footprint and make the space a master bedroom; that there are three in the family; that they had a baby last week; and that the sunroom did have a certificate of occupancy and a variance but they were told that they needed to get a new variance because the structure is being removed and rebuilt.

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. Mowerson 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 applicant is proposing to use the existing footprint of a sunroom with extensive damage from carpenter ants to build a master bedroom and extend into the rear yard with a deck. The total side yard is not increasing.
2. The requested total side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant is proposing to use the existing footprint of a sunroom with extensive damage from carpenter ants to build a master bedroom and extend into the rear yard with a deck. The total side yard is not increasing.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested total side yard variance 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.

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.

The foregoing resolution to approve the application for the requested total side yard variance was presented and moved by Mr. Sullivan, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; .Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

DECISION

§ 4.1 PERFORMANCE STANDARDS APPROVED WITH CONDITIONS

To: Steven Grogg (Crestron Performance Standards)      ZBA # 12-38

McLaren Engineering Group  
100 Snake Hill Road  
West Nyack, New York 10994

Date: June 20, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-38: Application of Crestron Electronics for Performance Standards Review pursuant to Sections 4.1 and 10.334 (Chapter 43: Zoning) for Use Subject to Performance Standards review with respect to an emergency generator. Premises are located at 88 Ramland Road, Tappan, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 77.05, Block 1, Lot 37; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Steven Grogg, P.E., and Dan Feldstein appeared and testified.

The following documents were presented:

1. Plans labeled "Generator Plan Crestron Electrics Inc." dated February 9, 2012 signed and sealed by Steven Grogg, P.E..
3. Sound Propagation Calculations and Material Safety Data Sheets.
4. Use Subject to Performance Standards Resume of Operations and Equipment form.
5. Fire Prevention Supplement.
6. A memorandum dated April 25, 2012 from John Giardiello, P.E., Director, Office of Building, Zoning and Planning Administration and Enforcement, Town of Orangetown.
7. A letter dated June 18, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
8. A letter dated June 20, 2012 from Michael B. Bettmann, Chief Fire Inspector, Town of Orangetown.
9. A letter dated May 16, 2012 from Joseph J. Moran, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.

Mr. Mowerson 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. Mowerson moved for a Board determination based upon the testimony heard by the Board, and the facts as presented in the application submissions and in the record, since application #12-38, entails the ZBA engaging in a review to determine compliance with technical requirements, that this application is exempt from environmental review under 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. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Steven Grogg testified that the generator is for emergency use only and went over the Performance Standards Resume with the Board.

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

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. Mowerson made a motion to close the Public Hearing which motion was seconded by Ms. Albanese 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:

1. Based upon the information contained in the applicant's Resume of Operations and Equipment, the Fire Prevention Supplement, the letter dated May 16, 2012 from Joseph J. Moran, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering concluding that there is no reasonable doubt as to the likelihood of applicant's conformance to the Zoning Code § 4.1 Performance Standards, the memorandum dated June 20, 2012 from Michael B. 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, 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., letter dated May 16, 2012; **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 Approval, or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.

(ii) Any approval of a variance, Performance Standards Approval, 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 approval, 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 Review, 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 Zoning Code § 4.1 Performance Standards was presented and moved by Mr. Mowerson seconded by Ms. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

#### DECISION

REAR YARD, § 3.11 CS DISTRICT, COLUMN 6 #2 (BUFFER) AND LI DISTRICT, COLUMN 6 #4 (PARKING) VARIANCES APPROVED

To: Donald Brenner (Tri-State Floor Covering)

ZBA # 12-39

4 Independence Avenue  
Tappan, New York 10983

Date: June 20, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-39: Application of Tri-State Floor Covering for variances from Chapter 43 (Zoning), Section 3.12, CS District, Column 11 (Rear Yard: 25’ required, 16’ proposed); Section 3.11, CS District, Column 6 #2 “Notes to Use and Bulk Table : Note 2 ( 50’ buffer required, 10’ buffer proposed) and from Section 3.11, CS District, Column 6 #4 and LI District, Column 6 #15: 15 parking spaces required; 11 parking spaces provided) for the construction of a new building. The site is located on the north side of North Troop Road, 100 feet east of the intersection of Western Highway, Blauvelt, New York and identified on the Orangetown Tax Map as Section 70.14, Block 2, Lot 43, in the CS zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, Jay Greenwell, Land Surveyor, and Jeff Lieberman, contract purchaser, appeared and testified.

The following documents were presented:

10. Site Development Plan TriState Floor Coverings, LLC latest revision date of 5/14/12 signed and sealed by Jay Greenwell, PLS, and Edward A. Maikish, P.E..
11. Planning Board Decision #12-06 dated March 14, 2012.
12. A letter dated June 15, 2012 from the County of Rockland Department of Planning signed by Thomas Vanderbeek, P.E., Commissioner of Planning.
13. A letter dated May 15, 2012 from the County of Rockland Department of Highways signed by Joseph Arena, Principal Engineering Technician.
14. A letter dated March 16, 2012 from Margaret Lane-Boyle, & Murphy Court, Blauvelt, NY.

Mr. Mowerson, 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, Mr. Mowerson 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 the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.6 (b) (3); and since the Planning Board conducted SEQRA review and on March 14, 2012, rendered environmental determinations of No significant adverse environmental impacts to result from the proposed land use actions (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 Regulations § 617.6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Donald Brenner, Attorney, testified that this west lot has been used as a parking area for years; that it is unsightly; that the owner of this lot also owns the lot facing Western Highway and the previous dry cleaner that leased a store contaminated the ground; that the DEC came in and fined the owner and the clean up was expensive; that the owner needs the money from the sale of this lot to continue clean up of the front lot; that the contract purchaser has been in business in Orangetown for 25 years; that he has locations on Western Highway and Oak Tree Road; that this building has been designed for his business; that this is a permitted use for the area and the building will improve the area.

Jay Greenwell., Land Surveyor, testified that they will have to appear before ACABOR; that they have added a six-foot high vinyl fence and a piped drainage system and that they have added a landscape plan showing 8’ spruce ten feet on center along the outside of the fence; that they cannot add a berm in that area because of the drainage swale; that the existing lot is hard packed dirt which allows a lot of run-off; that the plan will improve the situation but cannot correct the problems that belong to the County.

Public Comment:

Margaret Boyle, 7 Murphy Court, Blauvelt, testified that the 8’ high Norway Spruce proposed outside of a proposed 6’ high fence is not going to disguise the bays that she will be looking at from her yard and asked that a berm be installed outside of the fence to make the trees higher; that water runs across the street right into the rear of her property; 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.

Michael Roche, 15 Hayes Street, an abutting neighbor to the project testified that he is not against the project; that there is a major problem with drainage in the area; that the problem starts between Troop and Hayes street; that the proposed six foot fence will not block the 22 foot building; and that he would like to know what kind of lighting the building will have.

Taklui Lan, 533 Western Highway testified that his concern is with parking and if the

lawn service trucks will block his driveway if there is not parking for them.

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

Mr. Mowerson 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 and Section 3.11 Column 6, #2 (Buffer) & #15 (Parking) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Applicant has addressed the neighbors' concerns and the use is a permitted use in the area; the drainage in the area will be improved after this building is complete because of the new proposed drainage plan. The applicant testified that there will be two or three employees in the building, which eases any concern regarding the parking, and the requested variances are not excessive or detrimental.
2. The requested rear yard and Section 3.11 Column 6, #2 (Buffer) & #15 (Parking) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Applicant has addressed the neighbors' concerns and the use is a permitted use in the area; the drainage in the area will be improved after this building is complete because of the new proposed drainage plan. The applicant testified that there will be two or three employees in the building, which eases any concern regarding the parking, and the requested variances are not excessive or detrimental.
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 rear yard and Section 3.11 Column 6, #2 (Buffer) & #15 (Parking) variances, although somewhat substantial, and afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. 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 rear yard and Section 3.11 Column 6, #2 (Buffer) & #15 (Parking) 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.

The foregoing resolution to approve the application for the requested rear yard and Section 3.11 Column 6, #2 (Buffer) & #15 (Parking) variances was presented and moved by Ms. Albanese, seconded by Ms. Castelli and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

## DECISION

### SIDE YARD VARIANCE APPROVED

To: Thomas O'Sullivan

ZBA # 12-41

96 Monmouth Court  
Orangeburg, New York 10962

Date: June 20, 2012

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-41: Application of Thomas O'Sullivan for a variance from Chapter 43 (Zoning), Section 3.12, R-22 District, Group I, Column 9 (Side Yard: 25' required, 7' proposed) for a deck attached to an above-ground pool at an existing single-family residence. Premises are located at 96 Monmouth Court, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 2, Lot 29 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Timothy McCarvill, Attorney and Thomas O'Sullivan appeared and testified.

The following documents were presented:

15. Copy of site plan with pool and proposed deck drawn on it.
16. Zoning Board of Appeals Decision #92-55 dated June 17, 1992.
17. Certificate of Occupancy dated 06/01/2012 for the existing pool.

Mr. Mowerson, 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, Mr. Mowerson 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. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Thomas O'Sullivan testified that he would like to add a deck to the side of the pool; that it would not go around the pool; that the stairs to the deck would be on the side of the property closer to the house; that he purchased the house six years ago; that there are six people in the family; and that the original variance was granted for a round pool that was five feet from the property line.

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. Mowerson 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant already has a pool which the deck will be attached to, and the pool is set back seven feet from the property line.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant already has a pool which the deck will be attached to, and the pool is set back seven feet from the property line.
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 variance, although somewhat substantial, affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community.
5. 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 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.

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Castelli, seconded by Ms. Salomon and carried as follows: Mr. Sullivan, aye; Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

DECISION

§5.227 REAR YARD VARIANCE APPROVED

To: Warren Wicks

ZBA # 12-42

94 Bogert Street

Date: June 20, 2012

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#12-42: Application of Warren Wicks for a variance from Chapter 43 (Zoning), Section 5.227 (Accessory Building: 5' setback from property line required; 4.20' existing and proposed) for an existing garage that was extended at an existing single-family residence. Premises are located at 94 Bogert Street, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.16, Block 3, Lot 17 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 20, 2012 at which time the Board made the determination hereinafter set forth.

Warren Wicks appeared and testified.

The following documents were presented:

1. Copy of site plan.
2. Architectural plans for the garage addition dated August 2009 signed and sealed by Robert Hoene, Architect.

Mr. Mowerson, 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, Mr. Mowerson 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. Albanese and carried as follows: Mr. Sullivan, aye; Ms. Salomon, aye; Ms. Albanese, aye; Ms. Castelli, aye; and Mr. Mowerson, aye.

Warren Wicks testified that he purchased the house three years ago; that he had a building permit to renovate the house and add a second floor; that during the construction he realized that he needed storage and added onto the garage a 6' x 16' addition along the side of the existing garage for storage; that he spoke to the building inspector about doing this and was told that it could be added onto the existing permit; that since that time the building inspector went out sick and he was reassigned to a new inspector; that he rules changed and because he extended a pre-existing non-conforming situation, he needs a variance; that he is in the process of selling the house and needs to legalize this addition to get a certificate of occupancy for it in order to sell the house.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested § 5.227 rear yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The garage has existed 4.2' from the property line for a very long time and the existing addition has not been an issue for neighbors.
2. The requested § 5.227 rear yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Applicants' house was shown for sale with the existing addition to the garage and he could possibly lose the sale if not approved and no one has lodged a complaint against the construction of the 6' x 16' addition.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested § 5.227 rear yard variance is not substantial. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variances.

**DECISION:** In view of the foregoing and the testimony and documents presented, the Board: **RESOLVED**, that the application for the requested § 5.227 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.

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

































