

MINUTES
ZONING BOARD OF APPEALS
June 2, 2021

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN
PATRICIA CASTELLI
MICHAEL BOSCO
BILLY VALENTINE
THOMAS QUINN
ROB BONOMOLO, JR

ABSENT: NONE

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

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

ZAYAC
87 Independence Avenue
Tappan, New York
74.18 / 2 / 7; R-40 zone

TOTAL SIDE YARD VARIANCE APPROVED ZBA#21-48

DAMATO
281 South Middletown Road
Pearl River, New York
72.08 / 3 / 62; R-15 zone

ACCESSORY STRUCTURE DISTANCE FROM PRIMARY STRUCTURE VARIANCE APPROVED undersized lot acknowledged ZBA#21-49

SANTANA
110 Margaret Keahon Drive
Pearl River, New York
68.07 / 3 / 50; zone

REAR YARD FOR A SWIMMING POOL APPROVED ZBA#21-50

DAIKEN
PERFORMANCE STANDARDS
20 Olympic Drive
Orangeburg, New York
73.15 / 1 / 15; LIO zone

PERFORMANCE STANDARD CONFORMANCE APPROVED WITH SPECIFIC CONDITIONS ZBA#21-51

KLESS
153 Woodland Avenue
Pearl River, New York
68.11 / 3 / 50; R-15 zone

SIDE YARD VARIANCE APPROVED UNDERSIZE LOT ACKNOWLEDGED ZBA#21-52

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: 13 & 21 Mountainview Ave & 518 Route 303 Site Plan, 13 & 21 Mountainview Ave & 518 Route 303, Orangeburg, 74.07 / 1 / 2, 33 & 36; LI, LO, CC & Route 303 Overlay zone; Hillside Commercial Park Site Plan, Route 304, Pearl River, 68.11/3/ 39 & 40; LI zone; Hauser Tree Remediation, 200 Kings Highway, Tappan NY, 77.07/1/35.1; R-15 zone; K & P Paving Site Plan, 568 Route 303, Blauvelt, NY 70.14/4/191 LO zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

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 8:30 P.M.

Dated: June 2, 2021

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
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TOWN CLERK'S OFFICE

TOTAL SIDE YARD VARIANCE APPROVED

To: Joseph & Meg Zayak
87 Independence Avenue
Orangeburg, New York

ZBA #21-48
Date: June 2, 2021
Permit #51315

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-48: Application of Joseph and Meg Zayac for variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 10 (Total Side Yard: 50' required, 44.17' proposed) for an addition to an existing single-family residence. The property is located at 87 Independence Avenue, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.18, Block 2, Lot 7 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 2, 2021 at which time the Board made the determination hereinafter set forth.

Joseph and Meg Zayak appeared and testified.

The following documents were presented:

1. Plans labeled "Renovation & Addition for Zayac Residence" dated 2/8/21 not signed or sealed by Roam Architecture. (3 pages).

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, aye.

Meg Zayak testified that last year her mom got sick with Covid and had to go out on disability; that her parents sold their house and have moved in with them; that they are proposing an addition to the house so that her parents can have their own living quarters; that they are bumping out seven or eight feet by the garage and building over the garage for a bedroom and bath and shared laundry area upstairs; that they will have their own living room and pantry and refrigerator but they will share the existing kitchen; that mom will cook for the family; that they have five kids, and three dogs; and that they are also adding a mudroom.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested total side 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 neighborhood.
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. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested total side yard variance is not substantial, and 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. Similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested total side yard variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Bonomolo, 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: June 2, 2021

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-Dom M.

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

**ACCESSORY STRUCTURE DISTANCE VARIANCE APPROVED UNDEWRSIZED
LOT ACKNOWLEDGED**

To: Virginia Damato
281 South Middletown Road
Pearl River, New York

ZBA #21-49
Date: June 2, 2021
Permit #51229

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-49: Application of Virginia Damato for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15, Section 5.153 (Accessory Structure distance from primary structure: 15' required, 0.8' existing) for a shed located next to an existing deck. The premises are located at 281 South Middletown Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 72.08, Block 3, Lot 62; 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 2, 2021 at which time the Board made the determination hereinafter set forth.

Virginia Damato and Joe Gannon appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Shed Land Survey for Virginia Damato" dated March 4, 2021 signed and sealed by Robert E. Sorace, PLS. (1 page).
2. Four computer generated pictures of the site.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye and Mr. Valentine, aye.

Virginia Damato testified that she recently moved back to the area; that the house has no garage or basement; that there is an existing 10' x 10' shed that she wants to remove and replace with a 12' x 16' shed for storage; that she would like to locate it close to the existing deck because this location makes it easily accessible; that the property slopes down and there is an existing four foot high retaining wall; and that they would like to be able to continue to turn around in the rear driveway to access South Middletown Road because it is safer than trying to back out of the driveway.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 5.153 accessory structure distance to principal building variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot and noted that the existing shed is close to the existing deck, and this shed will be replacing it, and the rear yard is sloped.
2. The requested Section 5.153 accessory structure distance to principal building variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the undersized lot and noted that the existing shed is close to the existing deck, and this shed will be replacing it, and the rear yard is sloped.
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 Section 5.153 accessory structure distance to principal building variance although substantial, and 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. The Board acknowledged the undersized lot and noted that the existing shed is close to the existing deck, and this shed will be replacing it, and the rear yard is sloped.
- 5.
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 variance.

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.153 accessory structure distance to principal building variance is APPROVED and the undersized lot is acknowledged; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested Section 5.153 Accessory structure distance to principal building variance is APPROVED and the undersized lot is acknowledged; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: June 2, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-M.M.

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

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

REAR YARD VARIANCE FOR A SWIMMING POOL APPROVED

To: Jessica Santana
110 Margaret Keahon Drive
Pearl River, New York 10965

ZBA #21-50
Date: June 2, 2021
Permit #50139

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-50: Application of Jessica Santana for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 5.227 (Rear Yard for a swimming pool: 20' required, 11.9' proposed) for the installation of an above-ground pool at an existing single-family residence. The premises are located at 110 Margaret Keahon Drive, Pearl River, New York and are identified on the Orangetown Tax Map as Section 68.07, Block 3, Lot 50; 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 2, 2021 at which time the Board made the determination hereinafter set forth.

Jessica and Daniel Santana appeared and testified.

The following documents were presented:

1. Survey by James E. Drumm, L.S. with the pool on it signed and sealed and dated March 12, 2021.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, aye.

Daniel Santana testified that he installed the above-ground pool in that flat section of the yard; that he thought they needed to have a ten foot rear yard; that he installed the pool with 11.9' rear yard and found out that he needed a twenty foot rear yard; that their property backs up to Pfizer and woods; that he thought the existing fence was the property line and found out differently after he had a new survey completed; that they are first time home-owners and are learning as they go; and that the property is oddly shaped liked a trapezoid.

Public Comment:

No public comment.

TOWN OF ORANGETOWN
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TOWN CLERK'S OFFICE

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 5.227 rear yard variance for a pool will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is oddly shaped and the rear yard abuts wooded property owned by Pfizer; the pools location will not be a detriment to the neighbors.
2. The requested Section 5.227 rear yard variance for a pool will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is oddly shaped and the rear yard abuts wooded property owned by Pfizer; the pools location will not be a detriment to the neighbors.
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. The property is oddly shaped and the rear yard abuts wooded property owned by Pfizer; the pools location will not be a detriment to the neighbors.
4. The requested Section 5.227 rear yard variance for a pool, although somewhat substantial, and 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. The property is oddly shaped and the rear yard abuts wooded property owned by Pfizer; the pools location will not be a detriment to the neighbors.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.227 rear yard variance for a pool is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN CLERK'S OFFICE

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TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Section 5.227 rear yard variance for a pool is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, 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: June 2, 2021

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
2021 JUN - 8 A 11: 34
TOWN CLERK'S OFFICE

DECISION

CONFORMANCE TO PERFORMANCE STANDARDS APPROVED WITH SPECIFIC CONDITIONS

To: Bernardo Ngui
128 Noble Street #1
Brooklyn, New York 11222

ZBA #21-51
Date: June 2, 2021
Permit #51237

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-51: Application of Daiken America Inc. requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.1 Performance Standards: review of a clean room for research/ production and a place to show potential new products in a cleanroom setting. The building is located at 20 Olympic Drive, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 73.15, Block 1, Lot 15; in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 2, 2021 at which time the Board made the determination hereinafter set forth.

Steven Maricomti, Technical Advisor, Edward Arcari, Architect, Gary Fairley, Daiken Business Director, Frank Flores, Daiken Facilities Director, appeared and testified.

The following documents were presented:

1. Plans signed and sealed by Edward Anthony Arcari, RA, G.1- Location map. Drawing symbols, ADA Clearances. Abbreviations, Key plan & General Notes; PL.- Plot Plan, Equipment Plan all dated March 19, 2021.
2. Use Subject to Performance Standards Resume of Operations and Equipment dated April 12, 2021.
3. A report labeled" Air Permitting Evaluation for New Laboratory and Research & Development Daiken America, Inc., Orangeburg, New York Proposed FFKM Laboratory" dated March 10, 2021 (7 pages signed by Mary Daly, Principal Surrey Environmental Consulting, LLC. with six attachments.
4. A letter dated June 2, 2021 from Eamon Reilly, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
5. Memorandum dated June 2, 2021 from Dylan Hofsis, Public Health Engineer, Department of Environmental Management and Engineering, Town of Orangetown.
6. Memorandum dated June 2, 2021 from Michael Weber, Industrial Pretreatment Officer, Department of Environmental Management and Engineering, Town of Orangetown.
7. Memorandum dated June 2, 2021 from Bruce Peters, Engineer IV, Department of Environmental Management and Engineering, Town of Orangetown.
8. A memorandum dated May 26, 2021 from the Town of Orangetown Bureau of Fire Prevention from David Majewski, Chief Fire Inspector.
9. A letter dated May 3, 2021 from the County of Rockland Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

TOWN CLERK'S OFFICE
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TOWN OF ORANGETOWN

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

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

Edward Arcari, Architect, testified that the new clean room is a pre-engineered structure that fits within the existing building; that the plot plan shows the current facility (75,553 s.f. total according to the plans submitted) and the new 1747 sq. ft. clean room within the existing 7,686 sf warehouse ; that Plan page A.5 (Equipment Plan) dated 3/19/2021 is an enlarged clean room showing the small storage room, locker room, shower , work room equipment, the ships ladder to the mechanical equipment the glove box for pass through projects; the small chemical storage scales and glove box.

Gary Fairley, Business Director Daiken, testified that the company is an air conditioning company that sells and produces chemical refrigerants; and that the O-rings used for semi-conductors is another branch of the company.

Steven Maricomti, technical Advisor, testified that the clean room will be used to mix small chemical to be used to produce o-rings that are used in semi-conductors ; that this is an extremely clean material and no stray dust particles come in contact; that the compounding operation must be conducted in the clean room and passed through.

ZBA Board member Michael Bosco requested more information from the applicants regarding the air handlers on the roof, the air conditioning units and condensers; the split system lines and the decibel(db) ratings at the property line; and in the internal room; roof top ratings and cuts ratings; controls monitoring and what alarms go out; what process is in place for maintenance and cleaning of filters and documentation of air leakage to the warehouse from outside and engineer narrative of these breakdowns should be submitted for review and approval by DEME..

The Board reviewed the Performance Standards and Fire Supplement forms.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

Based upon the information contained in the applicant's Resume of Operations and Equipment; the report dated June 2, 2021 from Eamon Reilly, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 2, 2021 from Dylan Hofsis, Public Health Engineer, Orangetown Department of Environmental Management and Engineering, (DEME); the report dated June 2, 2021 from Michael Weber, Industrial Pretreatment Officer, Orangetown Department of Environmental Management and Engineering, (DEME); the report dated June 2, 2021 from Bruce Peters, P.E., Engineer IV, Department of Environmental Management and Engineering, (DEME); the report dated May 26, 2021 from David Majewski, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated May 3, 2021 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; and by direct request from the Zoning Board of Appeals at the hearing of June 2, 2021 the applicant shall submit a revised Resume of Operations and Equipment Form, for review and approval by Eamon Reilly, P.E., Commissioner, DEME, Town of Orangetown, detailing the following information:

- 1) page 3 under Operations, the hours per day operating:
- 2) Page 4, under Noise, correct to include the two (2) exhaust fans, the three (3) condensers, the four (4) air handlers, and split systems, and will all Decibels ratings (see Table A on page 5);
- 3) Applicant will refer to Table B page 8 to complete the Chemical Bulk Inventory Section on Page 9 where characterization codes must be filled in:
- 4) Page 11, under Chemical Discharge Sections, the applicant will "remove see attached report" and complete that section.

The applicant shall also submit documentation of how all filters are maintained, procedures for identifying a system shutdown, and if dirty air can get into the atmosphere (one example) also to be reviewed and accepted by Eamon Reilly , P.E., Commissioner, DEME, Town of Orangetown.

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The applicant shall also submit documentation of how filters are maintained and procedures for identifying if systems shutdown can dirty air get into the atmosphere (one example) also to be reviewed and accepted by Eamon Reilly, P.E. Commissioner DEME, Town of Orangetown. Based upon the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises.

DECISION: In view of the foregoing and the testimony and documents submitted, the Board: RESOLVED, that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is APPROVED with the following SPECIFIC CONDITIONS: the report dated June 2, 2021 from Eamon Reilly, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 2, 2021 from Dylan Hofsis, Public Health Engineer, Orangetown Department of Environmental Management and Engineering, (DEME); the report dated June 2, 2021 from Michael Weber, Industrial Pretreatment Officer, Orangetown Department of Environmental Management and Engineering, (DEME); the report dated June 2, 2021 from Bruce Peters, P.E., Engineer IV, Department of Environmental Management and Engineering, (DEME); the report dated May 26, 2021 from David Majewski, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated May 3, 2021 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; and by direct request from the Zoning Board of Appeals at the hearing of June 2, 2021 the applicant shall submit a revised Resume of Operations and Equipment Form, for review and approval by Eamon Reilly, P.E., Commissioner, DEME, Town of Orangetown, detailing the following information:

- 1) page 3 under Operations, the hours per day operating:
- 2) Page 4, under Noise, correct to include the two (2) exhaust fans, the three (3) condensers, the four (4) air handlers, and split systems, ad will all Decibels ratings (see Table A on page 5);
- 3) Applicant will refer to Table B page 8 to complete the Chemical Bulk Inventory Section on Page 9 where characterization codes must be filled in:
- 4) Page 11, under Chemical Discharge Sections, the applicant will "remove see attached report" and complete that section.

The applicant shall also submit documentation of how all filters are maintained, procedures for identifying a system shutdown, and if dirty air can get into the atmosphere (one example) also to be reviewed and accepted by Eamon Reilly , P.E., Commissioner, DEME, Town of Orangetown.

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The applicant shall also submit documentation of how filters are maintained and procedures for identifying if systems shutdown can dirty air get into the atmosphere (one example) also to be reviewed and accepted by Eamon Reilly, P.E. Commissioner DEME, Town of Orangetown. Based upon the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises; AND FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing Resolution, to approve the application for the requested conformance to Performance Standards with the following conditions: the report dated June 2, 2021 from Eamon Reilly, P.E., Commissioner of the Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated June 2, 2021 from Dylan Hofsis, Public Health Engineer, Orangetown Department of Environmental Management and Engineering, (DEME); the report dated June 2, 2021 from Michael Weber, Industrial Pretreatment Officer, Orangetown Department of Environmental Management and Engineering, (DEME); the report dated June 2, 2021 from Bruce Peters, P.E., Engineer IV, Department of Environmental Management and Engineering, (DEME); the report dated May 26, 2021 from David Majewski, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); and the report dated May 3, 2021 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; and by direct request from the Zoning Board of Appeals at the hearing of June 2, 2021, the applicant shall submit a revised Resume of Operations and Equipment Form, for review and approval by Eamon Reilly, P.E., Commissioner, DEME, Town of Orangetown, detailing the following information:

- 1) page 3 under Operations, the hours per day operating:
- 2) Page 4, under Noise, correct to include the two (2) exhaust fans, the three (3) condensers, the four (4) air handlers, and split systems, and will all Decibels ratings (see Table A on page 5);
- 3) Applicant will refer to Table B page 8 to complete the Chemical Bulk Inventory Section on Page 9 where characterization codes must be filled in:
- 4) Page 11, under Chemical Discharge Sections, the applicant will "remove see attached report" and complete that section.

The applicant shall also submit documentation of how all filters are maintained, procedures for identifying a system shutdown, and if dirty air can get into the atmosphere (one example) also to be reviewed and accepted by Eamon Reilly , P.E., Commissioner, DEME, Town of Orangetown.

The applicant shall also submit documentation of how filters are maintained and procedures for identifying if systems shutdown can dirty air get into the atmosphere (one example) also to be reviewed and accepted by Eamon Reilly, P.E. Commissioner DEME, Town of Orangetown. Based upon the other documents submitted to the Board and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., and B.F.P., and all other departments having jurisdiction of the premises; 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; shall be complied with; was presented and moved by Mr. Sullivan, seconded by Mr. Quinn and carried as follows: Mr. Bonomolo, aye; Mr. Quinn, aye ; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Bosco, aye.

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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: June 2, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
OBZPAE
BUILDING INSPECTOR-G.M.

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

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SIDE YARD VARIANCE APPROVED; UNDERSIZED LOT ACKNOWLEDGED

To: Justin and Lindsay Kless
153 Woodland Avenue
Pearl River, New York 10965

ZBA #21-52
Date: June 2, 2021
Permit #50661

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-52: Application of Justin and Lindsay Kless for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 15' required, 5.5' existing) (Section 5.21 Undersized lot applies) for an existing screened in porch at a single-family residence. The property is located at 153 Woodland Avenue, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.11, Block 3, Lot 50 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 2, 2021 at which time the Board made the determination hereinafter set forth.

Justin and Lindsay Kless appeared and testified.

The following documents were presented:

1. Plans labeled "Screened Patio Plan" dated June 11, 2020 signed and sealed by Frederick McCullough, P.E. (1 page).
2. Survey dated June 10, 2020 by Robert Rahnefeld, PLS.
3. Three letters in support of the application.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, aye.

Justin Kless testified that they are first time home owners; that the previous owner was suppose to take of this but has since moved; that they closed on the property with money in escrow by the sellers until they find out if they can keep the side porch; that they had the porch inspected by an engineer and he said that it was built very well; that the property is undersized and they have letters from the surrounding neighbors in support of their application to keep the porch.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that 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 Board acknowledged the undersized lot and noted that the screen in room has existed for many years without incident.
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 Board acknowledged the undersized lot and noted that the screen in room has existed for many years without incident.
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 side yard variance although somewhat substantial, and 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. The Board acknowledged the undersized lot and noted that the screen in room has existed for many years without incident.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

General Conditions:

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

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The foregoing resolution to approve the application for the requested side yard variance is APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Quinn, seconded by Mr. Bosco and carried as follows: Ms. Castelli, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Quinn, 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: June 2, 2021

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
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FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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