# **MINUTES** ZONING BOARD OF APPEALS January 3, 2018

MEMBERS PRESENT:

DAN SULLIVAN

JOAN SALOMON MICHAEL BOSCO JOAN SALOMON THOMAS QUINN PATRICIA CASTELLI

LEONARD FEROLDI, ALTERNATE

ABSENT:

NONE

ALSO PRESENT:

Dennis Michaels, Esq.

Deputy Town Attorney

Ann Marie Ambrose,

Official Stenographer

Christian Catania,

Senior Clerk Typist

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** 

**NEW ITEMS:** 

D'ALISERA

SIDE YARD VARIANCE

ZBA#18-01

85 Ehrhardt Road

APPROVED; HEIGHT VARIANCE

Pearl River, NY

DEEMED NOT NECESSARY

69.09 / 5 / 29; R-15 zone

SAMBROTTO SUBDIVISION

10 MO. EXTENSION OF

ZBA#18-02

34 Clausland Mountain Road Blauvelt, NY

70.15 / 2 / 11; R-40 zone

TIME GRANTED

**RAMSEY** 

SIDE YARD VARIANCE

ZBA#18-03

7 William Street

Sparkill, NY

77.08 / 5 / 33.1; RG zone

**APPROVED** 

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### OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following applications: Pfizer Village Green Fence Plan Phase 2, 401 North Middletown Road, Pearl River, NY; 68.08 / 1 / 5; LI zone; Crestron Electronics Inc. Amendment, 88 Ramland Road, Orangeburg, NY; 77.05 / 1 / 36; LIO zone; C &E Island Flavor / Town Plaza II Site Plan, 500 Route 303, Orangeburg, NY; 74.07 / 1 / 6; CC & LI zone; 526 Route 303 Site Plan, 526 Route 303, Orangeburg, NY, 70.17 / 1 / 45; CO zone; and Project Sycamore Amendment, Convent Road, Blauvelt, 73.08 / 1 / 1, 3, & 4; RPC-OP 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 8:30 P.M.

Dated: January 3, 2018

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

Christian Catania, Senior Clerk Typist

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

TOWN CLERK'S OFFICE
TOWN OF ORANGETOWN

#### **DECISION**

# SIDE YARD VARIANCE APPROVED; BUILDING HEIGHT VARIANCE DEEMED NOT NECESSARY

To: Vincent D'Alisera 85 Ehrhardt Road Pearl River, New York 10965

ZBA #18-01 Date: January 3, 2018 Permit #46992

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-01: Application of Vincent D'Alisera for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 9 (Side Yard: 20' required, 16.24' proposed), and 12 (Building Height: 16.24' permitted, 27' proposed) for an addition to an existing single-family residence. The Premises are located at 85 Ehrhardt Road, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.09, Block 5, Lot 29 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 3, 2018 at which time the Board made the determination hereinafter set forth.

Vincent D'Alisera and Danielle Crill, appeared and testified.

The following documents were presented:

- 1. Survey for 85 Ehrhardt Road dated 12/04/2015 signed by Steven J. Collazuol, PE. & L.S.
- 2. Architectural plans dated 10/07/2017 with the latest revision date of 11/03/2017 signed and sealed by John J. Gilchrist, Architect.

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

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

Vincent D'Alisera testified that they want to put and 2<sup>nd</sup> floor addition with 3 bedrooms and two bathrooms. He stated they have owned the house for 6 years. It is just Danielle and he that live there and they do not have kids. He also said that the bedroom on the first floor would remain. He believes that it would not make his house unlike other houses in the area because the neighborhood has similar additions.

Danielle Crill testified that they would be building on the existing footprint.

TOWN CLERK'S OFFICE

2018 JAN 18 P 1: 05

TOWN OF ORANGETOWN

Permit#46992

# **Public Comment:**

No public comment.

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

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

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

#### FINDINGS OF FACT AND CONCLUSIONS:

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

- 1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. At a Zoning Board Hearing held on November 1, 2017, (regarding a different application) the Board determined that the Building Height, as defined under the Zoning Code, shall be determined from the designated street line, therefore a building height variance is not necessary for this application (see ZBA#17-83, Mc Kenna) The side yard of 16.24' is changing because a second floor is being constructed increasing the bulk of the existing pre-existing non-conforming side yard, however the proposal is not extending the existing footprint of the building.
- 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. At a Zoning Board Hearing held on November 1, 2017, (regarding a different application) the Board determined that the Building Height, as defined under the Zoning Code, shall be determined from the designated street line, therefore a building height variance is not necessary for this application (see ZBA#17-83, Mc Kenna) The side yard of 16.24' is changing because a second floor is being constructed increasing the bulk of the existing pre-existing non-conforming side yard, however the proposal is not extending the existing footprint of the building.
- 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.

TOWN OF ORANGETOWN TOWN OF ORANGETOWN

- 4. The requested side yard variance, although somewhat substantial, afford benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The height of the building is increasing by 7', changing the existing bulk of the building but not changing the existing footprint.
- 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 at a Zoning Board Hearing (regarding a different application) held on November 1, 2017, the Board determined that Building Height, as defined under the Zoning Code, shall be determined from the designated street line, therefore a building height variance is not necessary for this application (see ZBA#17-83, Mc Kenna); 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.

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

The foregoing resolution to approve the application for the requested side yard variance is APPROVED, and at a Zoning Board Hearing (regarding a different application) held on November 1, 2017, the Board determined that Building Height, as defined under the Zoning Code, shall be determined from the designated street line, therefore a building height variance is not necessary for this application (see ZBA#17-83, Mc Kenna); was presented and moved by Mr. Sullivan, seconded by Ms. Salomon and carried as follows: Mr. Bosco, nay; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: January 3, 2018

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

Christian Catania Senior Clerk Typist

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN

2018 JAN 18 P 1: 05

TOWN CLERK'S OFFICE

#### **DECISION**

# EXTENSION OF TIME TO IMPLEMENT VARIANCES PREVIOUSLY APPROVED IN ZBA#15-11 GRANTED FOR 18 MONTHS FROM THE DATE THIS DECISION IS STAMPED

To: Raymond Sambrotto 34 Clausland Mountain Road Blauvelt, New York 10913 ZBA #18-02 Date: January 3, 2018 Permit # not assigned

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-02: Application of Sambrotto Subdivision for an extension of time to implement variances that were granted in ZBA#15-11, dated February 18, 2015; from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-40 District, Group E, Columns 5 (Lot Area: 40,000 sq. ft. required, 35, 691 proposed for lot #1; 35,283 sq. ft. for lot #2), 8 (Front Yard: 50' required, 9.3' existing to the existing garage on lot #1), and 9 (Side Yard: 30' required, 11' existing to existing garage on lot #1) for a proposed two- lot residential subdivision. The premises are located at 34 Clausland Mountain Road, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 70.15, Block 2, Lot 11; in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 3, 2018 at which time the Board made the determination hereinafter set forth.

Raymond Sambrotto appeared and testified.

The following documents were presented:

- 1. Subdivision plan labeled "Subdivision of property for Sambrotto" dated 9/12/2014 with the latest revision date of 05/17 /2016 signed and sealed by Jay A. Greenwell, PLS.
- 2. Planning Board Decision #17-53 dated October 11, 2017 and Zoning Board Decision #1511 dated 02/18/2015.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for this application, pursuant to coordinated review under the State Environmental Quality Review Act Regulations §617.6 (b) (3); and since the Planning Board conducted a SEQRA review and on December 10, 2014, rendered an environmental determination of **no** significant adverse environmental impacts to result from the proposed land use action (i.e., a "Negative Declaration" or "Neg. Dec"), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulation § 617,6 (b)(3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Feroldi, aye; Ms. Castelli, aye; Ms. Salomon, aye; Mr. Bosco, aye; Mr. Quinn, aye; and Mr. Sullivan, aye.

TOWN OF ORANGETOWN
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Ray Sambrotto testified that he would like to close the process. His lawyer dropped the ball, and he was at the point where they were negotiating the recreation fee with the mortgage company. His new lawyer is now in those negotiations. He estimates that everything will be approved and built in about 2 years. Right now he has no formal plans for a building. There is one house existing, and he would only be building one more house. He said that an 18 month extension of time would be desirable.

# Public Comment:

No Public Comment.

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

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

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

# FINDINGS OF FACT AND CONCLUSIONS:

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

- 1. No significant change in circumstances has occurred since the prior approved variances were granted that would warrant Board reconsideration of its previous approval.
- 2. Applicants stated that they expect to file the final subdivision map in the near future and an 18 month extension would allow time to complete everything.

TOWN CLERK'S OFFICE 2018 JAN 18 P 1: 05 TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested 18 month extension of time to implement the variances granted in ZBA# 15-11 is APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

# General Conditions:

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

TOWN CLERK'S OFFICE

2018 JAN 18 P 1: 06

TOWN OF ORANGETOWN

The foregoing resolution, to approve the application for the requested extension of time to implement the variances granted in ZBA# 15-11, is APPROVED for 18 months from the date this decision is stamped; was presented and moved by Tom Quinn, seconded by Michael Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Ms. Salomon, aye; and Ms. Castelli, aye.

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

DATED: January 3, 2018

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

Christian Catania Senior Clerk Typist

#### DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE 2018 JAN 18 P 1: 06 TOWN OF ORANGETOWN

# **DECISION**

# SIDE YARD VARIANCE APPROVED

To: Kevin Ramsay 572 Route 303 Blauvelt, New York 10913 ZBA #18-03 Date: January 3, 2018

Permit # 42177

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#18-03: Application of Kevin Ramsay for a variance from Chapter 43 (Zoning) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 10 (Side Yard: 30' required, 28' existing & proposed) for an existing single family residence. The premises are located at 7 William Street, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 5, Lot 33.1; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, January 3, 2018 at which time the Board made the determination hereinafter set forth.

Richard Ramsay, Esq., appeared and testified.

The following documents were presented:

1. As-built survey for tax lot 77.08-5-33.1 dated 05/27/2015 with the last revision date of 10/26/2017 signed and sealed by Jay A. Greenwell, PLS, LLC.

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

Richard Ramsay, Esq., testified that originally they were in compliance with the zoning rule laid out by the subdivision. A neighbor sued Mr. Ramsay for adverse possession and the judge granted the neighbor a 2ft piece of the property. Originally the measurement was 75', now it is 73.56'. The court case ended 2 years ago, and he decided not to appeal based on the cost. The existing house improves the overall appearance of the block.

**Public Comment:** 

No public comment.

TOWN OF ORANGETOWN
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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 side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The abutting property owner has had use of this property by adverse possession for many years, so there is no change to the neighborhood.
- 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 abutting property owner has had use of this property by adverse possession for many years, so there is no change to the neighborhood.
- 3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
- 4. The requested 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.

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

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

DATED: January 3, 2018

ZONING BOARD OF APPEALS TOWN OF ORANGETOWN

Christian Catania Senior Clerk Typist

# DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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2018 JAN 18 P 1: 06

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