

MINUTES  
ZONING BOARD OF APPEALS  
May 5, 2021

MEMBERS PRESENT: DAN SULLIVAN, CHAIRMAN  
PATRICIA CASTELLI,  
MICHAEL BOSCO  
.BILLY VALENTINE  
THOMAS QUINN

ABSENT: THOMAS QUINN  
ROB BONOMOLO, JR

ALSO PRESENT: Deborah Arbolino, Administrative Aide  
Elizabeth Brancati, 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

NEW ITEMS:

QUEVEDO  
66 Conklin Avenue  
Tappan, New York  
77.11 / 1 / 68; R-15 zone

ACCESSORY STRUCTURE ZBA#21-37  
HEIGHT VARIANCE APPROVED

BOSSMANN  
48 Roosevelt Street  
Pearl River, New York  
68.16 / 5 / 40; RG zone

ACCESSORY SRUCTURE ZBA#21-38  
LOCATION VARIANCES APPROVED

DELIDIMTRION  
15 Garfield Street  
Blauvelt, New York  
70.14 / 2 / 39; R-15 zone

FRONT YARD FENCE ZBA#21-39  
HEIGHT VARIANCE APPROVED

REDDAN  
63 Colonial Court  
Pearl River, New York  
69.13 / 2 / 4; R-14 zone

APPLICANT DID NOT ATTEND ZBA#21-40

TOWN CLERK'S OFFICE

2021 MAY 10 P 1:06

TOWN OF ORANGETOWN

SANTANDER  
182 Summit Avenue  
Tappan, New York  
77.06 / 1 / 61; R-15 zone

FRONT YARD ZBA#21-41  
FENCE HEIGHT VARIANCE  
APPROVED

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: Mauro Site Plan, 1079 Route 9W, South Nyack, 71.09 / 1 / 8; R-22 zone; Alatsas Site Plan, 9 & 11 Bergen Avenue, Palisades, 77.20/2/86 & 86; R-15 zone; SMK Erie West Subdivision Plan, 104 West Erie Street, Blauvelt, 70.13/1/20; R-15 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

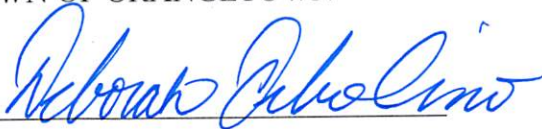
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 8:00 P.M.

Dated: May 5, 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 CLERK'S OFFICE  
2021 MAY 10 P 1:06  
TOWN OF ORANGETOWN

**ACCESSORY STRUCTURE HEIGHT VARIANCE APPROVED**

To: James Quevedo  
66 Conklin Avenue  
Tappan, New York 10986

ZBA #21-37  
Date: May 5, 2021  
Permit #51213

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-37: Application of James Quevedo for variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.227 ( Accessory Structure shall be 15' to the mean height: 17' proposed)) for a detached garage at an existing single-family residence. The property is located at 66 Conklin Avenue, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.11, Block 1, Lot 68 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 5, 2021 at which time the Board made the determination hereinafter set forth.

James Quevedo appeared and testified.

The following documents were presented:

1. Architectural plans dated March 12, 2021 by Harry J. Goldstein, Architect.
2. A picture of a similar garage that was constructed in the neighborhood.

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

On advice of Elizabeth Brancati, 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. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

James Quevedo stated that he is removing the existing garage and proposing to build a new garage that is a story and a half; that he is planning on using the rear of the garage as a woodworking/shop area; and that the extra height will provide much needed storage space; that the house only has a crawl space and they really need additional storage area; that there is another new two car garage in the neighborhood but it is a two story structure and he submitted a picture of the garage.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE  
2021 MAY 10 P 1:06  
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 Mr. Bosco and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested building height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar garages have been constructed in the neighborhood.
2. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar garages 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 building height 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 garages 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 OF ORANGETOWN  
2021 MAY 10 P 1:07  
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested building height 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 CLERK'S OFFICE  
2021 MAY 10 P 1:07  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Building Height variance is APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

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

DATED: May 5, 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  
2021 MAY 10 P 1:07  
TOWN CLERK'S OFFICE

**SECTION 5.227 ACCESSORY STRUCTURE VARIANCES APPROVED**

To: Ralph Bossmann  
48 Roosevelt Street  
Pearl River, New York 10965

ZBA #21-38  
Date: May 5, 2021  
Permit #51158

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-38: Application of Ralph Bossmann for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 5.227 (Accessory structure set back from property line: 5' required, 2', 2', 1', and 1.4' existing ) for three (3) accessory structures at an existing single-family residence. The property is located at 48 Roosevelt Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.16, 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, May 5, 2021 at which time the Board made the determination hereinafter set forth.

Ralph Bossmann appeared and testified.

The following documents were presented:

1. Survey with sheds dated 7/23/2020 signed and sealed by Robert Murphy, Architect.

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

On advice of Elizabeth Brancati, 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. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

Ralph Bossmann testified that there are not four sheds, that there is a greenhouse and two sheds; that the existing structure in the rear of the yard has been there for at least forty years and if it had to be moved it would probably would not survive the move; that the sheds are used for storage, tools and lawn furniture; that there is a tall fence on that side of the yard that belongs to his neighbors and the sheds are really not visible above the fence; that he has a chain link fence also; and that the side yard and total side yard variances might have been granted when he was before the Board in October.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE  
2021 MAY 10 P 1:07  
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 § 5.227 Accessory Structure location variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The existing accessory structures, one that has been there for almost forty years are not intrusive and are surrounded by tall fencing in the area that is closest to the neighbors.
2. The requested § 5.227 Accessory Structure location variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The existing accessory structures, one that has been there for almost forty years are not intrusive and are surrounded by tall fencing in the area that is closest 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.
4. The requested § 5.227 Accessory Structure location variances are 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. The existing accessory structures, one that has been there for almost forty years are not intrusive and are surrounded by tall fencing in the area that is closest 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  
2021 MAY 10 P 1:07  
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 accessory location variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN CLERK'S OFFICE  
2021 MAY 10 P 1:08  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Section 5.227 accessory structure location variances APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Valentine, aye; Mr. Bosco, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

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

DATED: May 5, 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  
2021 MAY 10 P 1:08  
TOWN CLERK'S OFFICE

**FRONT YARD FENCE HEIGHT VARIANCE APPROVED**

To: Vasilis Delidimitrion  
15 Garfield Street  
Blauvelt, New York 10913

ZBA #21-39  
Date: May 5, 2021  
Permit #51218

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-39: Application of Vasilis Delidimtion for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.226 (Front Yard Fence: 4 ½' permitted, 6' proposed) for a 6' fence in a front yard at an existing single-family house. The premises are located at 15 Garfield Street, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.14 Block 2, Lot 39 in the R-15 zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 5, 2021 at which time the Board made the determination hereinafter set forth.

Vasilis Delidimitrion appeared and testified.

The following documents were presented:

1. Survey dated 3/30/ 2017 signed and sealed by Darioush Shater Torabi, Architect, with the proposed fence highlighted.

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

On advice of Elizabeth Brancati, 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. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

Vasilis Delidimitrion testified that he would like to install a six-foot fence instead of a four and a half foot fence for safety reasons; that he has two front yards and two young children that he fears could climb over the shorter fence; that the fence would be 25' back from North Troop Road and about forty feet off of Garfield; that he had a separate permit for the other fence and shed in the rear yard; that the shed is 12' x 16'; and that he purchased the house two years ago.

Public Comment:

No public comment.

TOWN OF ORANGETOWN  
2021 MAY 10 P 1:08  
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 Mr. Valentine 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 5.226 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed six-foot fence will be set back 25' from North Troop Road and approximately 40' from Garfield Street and will not cause any obstruction for traffic in the area.
2. The requested Section 5.226 front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed six-foot fence will be set back 25' from North Troop Road and approximately 40' from Garfield Street and will not cause any obstruction for traffic in the area.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested Section 5.226 front yard fence height 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 proposed six-foot fence will be set back 25' from North Troop Road and approximately 40' from Garfield Street and will not cause any obstruction for traffic in the area.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN  
2021 MAY 10 P 1:08  
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.226 front yard fence height 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 CLERK'S OFFICE  
2021 MAY 10 P 1:08  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested Section 5.226 front yard fence height variance is APPROVED; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

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

DATED: May 5, 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 MAY 10 P 1:08  
TOWN CLERK'S OFFICE

**SECTION 5.226 FRONT YARD FENCE HEIGHT VARIANCE APPROVED**

To: Robert Santander  
182 Summit Avenue  
Tappan, New York 10983

ZBA #21-41  
Date: May 5, 2021  
Permit #51241

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-41: Application of Robert Santander for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.226 (Front Yard Fence: 4 ½' permitted, 6' proposed) for a 6' fence in a front yard at an existing single-family house. The premises are located at 182 Summit Avenue, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.06 Block 1, Lot 61 in the R-15 zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, May 5, 2021 at which time the Board made the determination hereinafter set forth.

Robert Santander appeared and testified.

The following documents were presented:

1. Plans labeled "New Privacy Fence Santander Residence " dated 03/19/2021 signed and sealed by Louise Male, Architect. (1 page).

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

On advice of Elizabeth Brancati, 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. Valentine, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

Robert Santander testified that he would like to install a six foot fence behind the existing tree line for privacy; that they recently installed a deck and a hot tub and decided to apply for the taller fence after someone was standing on the side of the street taking pictures; that the trees have grown very tall and the lower branches are about five or six feet from the ground and do not provide the privacy that they did when they were smaller; that he has lived in the house for 18 years; and the fence would be about 10 to 15 feet from the sidewalk; and that the neighbor behind him has a fence along Lester.

Public Comment:

No public comment.

TOWN CLERK'S OFFICE  
2021 MAY 10 P 1: 08  
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 5.226 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The fence will be set back at least ten feet from the existing sidewalk and similar fences have been constructed in the neighborhood.
2. The requested Section 5.226 front yard fence height variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The fence will be set back at least ten feet from the existing sidewalk and similar fences 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 Section 5.226 front yard fence height 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 fence will be set back at least ten feet from the existing sidewalk and similar fences 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 OF ORANGETOWN  
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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.226 front yard fence height 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 CLERK'S OFFICE

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Permit #51241

The foregoing resolution to approve the application for the requested Section 5.226 front yard fence height variance was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Valentine, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Quinn and Mr. Bonomolo were absent.

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

DATED: May 5, 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  
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TOWN CLERK'S OFFICE