

MINUTES
ZONING BOARD OF APPEALS
September 15, 2021

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

ABSENT: PATRICIA CASTELLI

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Katlyn Bettmann, Senior Clerk Typist
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

CONTINUED ITEM:

WU 51 Theodore Roosevelt Drive Blauvelt, New York 70.17 / 2 / 18; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED AS MODIFIED	ZBA#21-76
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NEW ITEMS:

O'CONNOR 72 Meadows Street Pearl River, New York 69.09 / 3 / 41; R-15 zone	SIDE YARD AND REAR YARD VARIANCES FOR POOL APPROVED	ZBA#21-79
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FAILS 21 Clinton Avenue Tappan, New York 77.06 / 2 / 48; R-15 zone	LOT AREA, LOT WIDTH, FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED	ZBA#21-80
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THOMAS 17 Bell Lane Tappan, New York 77.07 / 3 / 6; RG zone	FLOOR AREA RATIO VARIANCE NOT REQUIRED: SHED IS UNDER 144 SQ. FT. SECTION 5.227 ACCESSORY STRUCTURE LOCATION VARIANCE APPROVED	ZBA#21-81
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TOWN CLERK'S OFFICE

GREEN
8 Hillside Terrace
Nanuet, New York
64.18 / 1 / 7; R-15 zone

FRONT YARD SOUTH SIDE , ZBA#21-82
(TWO FRONT YARDS)
REAR YARD EAST SIDE 27.7';
BUILDING HEIGHT, FLOOR AREA RATIO
VARIANCES APPROVED: UNDERSIZE LOT
ACKNOWLEDGED

WPT ACQUISITIONS
INTERPRETATION
13 & 21 Mountainview Avenue
and 516 Route 303
Orangeburg, New York
74.07 / 1 / 36; LI & LIO zones
74.07 / 1 / 33 LI zone
74.07 / 1 / 2; CC zone

DEFERRED DECISION ZBA#21-83

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 SEQR Regulations § 617.6 (b)(3) the following application; Hauser Site and Tree Remediation Plan, 200 Kings Highway, Tappan, NY, 77.07 / 1 / 35.1; 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 10:00 P.M.

Dated: September 15, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By Deborah Arbolino

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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SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED AS MODIFIED

To: John Ferraro (Wu)
37 Maple Avenue
New City, New York 10956

ZBA #21-76
Date: September 1, & 15, 2021
Permit #51539

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-76: Application of Yingfeng Wu 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, 9.5' proposed: 10' approved) and 10 (Total Side Yard: 50' required, 31.1' proposed: 31.6' approved) for an addition to a single-family residence. The property is located at 51 Theodore Roosevelt Drive, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.17, Block 2, Lot 18 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 1, 2021 at which time the Board made the determination hereinafter set forth.

John Ferraro, Architect, and Yingfeng Wu appeared and testified.

The following documents were presented:

1. Plans labeled "Wu Residence 51 Theodore Roosevelt Drive" dated May 1, 2021 signed and sealed by John Anthony Ferraro, PC, Architect. (4 pages).
2. Copy of survey by Kulhanek & Plan dated 3/25/1963.
3. A letter dated June 22, 2021 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated August 24, 2021 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
5. A memorandum stating that the project is not in their jurisdiction from the Rockland County Highway Department dated June 17, 2021.
6. Zoning Board of Appeals Decision 74-35 dated 4/30. 1974.

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 Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Mr. Quinn, aye; and Mr. Valentine, aye. Ms. Castelli was absent.

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At the September 1, 2021 hearing John Ferraro, Architect, testified that they are proposing to add a two story addition of a garage and storage onto the existing house; that Mr. Wu is working remotely and has been using part to the existing garage as his office and would like to add the new garage onto the house; that number 20 and 48 Theodore Roosevelt have similar additions and the house directly across the street, number 64 has a substantial addition; that this lot is narrow and deep and 75% of the property is in the rear of the house; that he will add the bulk table to the plans and the garage is proposed at its present width to accommodate two cars and that he would like to request a continuance to bring in more research of the neighborhood.

Public Comment:

No public comment.

The Board announced that the application would be continued on September 15th at 7:00 p.m. in the Greenbush Auditorium.

At the September 14, 2021 hearing Yingfeng Wu appeared.

Yingfeng Wu testified that they did the research that the board requested at the last hearing and they found a ZBA Decision for the property a 39 Theodore Roosevelt that was dated April 11, 1974 which granted a side yard variance of 10' for their two car garage; that he would reduce his proposed garage by 6" to accommodate a ten foot side yard; and he appreciates the board's consideration.

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 and total side yard variances as modified 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.

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2. The requested side yard and total side yard variances as modified 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 variances.
4. The requested side yard and total side yard variances as modified 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. 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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard and total side yard variances as modified to 10' side yard and 31.6' total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.
- (iii) The Board gives no approval of any building plans, including, without limitation, the accuracy and structural integrity thereof, of the applicant, but same have been submitted to the Board solely for informational and verification purposes relative to any variances being requested.

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

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

The foregoing resolution to approve the application for the requested side yard and total side yard variances as modified to 10' side yard and 31.6' total side yard is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye and Mr. Valentine, aye. Ms. Castelli was 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: September 15, 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

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

TOWN CLERK'S OFFICE
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**SIDE YARD AND REAR YARD VARIANCES APPROVED FOR A POOL;
UNDERSIZED LOT ACKNOWLEDGED**

To: Liam O'Connor & Diana Gorglione
72 Meadows Street
Pearl River, New York 10965

ZBA #21-79
Date: September 15, 2021
Permit #51607

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-79: Application of Liam O'Connor and Diana Gorglione 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: 18' required, 13' proposed) and Section 5.227 (Rear Yard for a pool: 20' required, 13' proposed) (Section 5.12 Undersized Lot Applies) for an in-ground pool at an existing single-family residence. The property is located at 72 Meadows Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.09, Block 3, Lot 41 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 15, 2021 at which time the Board made the determination hereinafter set forth.

Liam O'Connor and Diana Gorglione appeared and testified.

The following documents were presented:

1. Survey with the pool drawn on it by B & B Pool & Spa dated June 15, 2021.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Quinn 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 Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; and Mr. Quinn, aye. Ms. Castelli was absent.

Diane Gorglione testified that they would like to install an in-ground pool in the back yard; that they have an undersized lot; that there is an existing deck and patio and they would like to keep both; that this proposal is the best use of the space left in the yard; and that their neighbors have not objected.

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 side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot, the patio that is not shown on the site plan and noted that similar pools have been constructed in the neighborhood.
2. The requested side yard and rear yard variances 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, the patio that is not shown on the site plan, and noted that similar pools 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 variances.
4. The requested side yard and rear yard variances 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, the patio that is not shown on the site plan and noted that similar pools 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 area variances.

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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 and rear yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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O'Connor/ Gorglione
ZBA#21-79
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Permit #51607

The foregoing resolution to approve the application for the requested side yard and rear yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Mr. Valentine, aye; and Mr. Quinn, aye. Ms. Castelli was 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: September 15, 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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FLOOR AREA RATIO, LOT AREA, LOT WIDTH, SIDE YARD, TOTAL SIDE YARD AND REAR YARD VARIANCES APPROVED

To: Jonathan Hodash (Fails)
21 Clinton Avenue
Tappan, New York 10983

ZBA #21-80
Date: September 15, 2021
Permit #51613

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-80: Application of Terri Fails for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area ratio: .20 permitted, .34 existing no change); 5 (Lot Area: 15,000 sq. ft. required, 7,486 sq. ft. existing no change); 6 (Lot Width: 100' required, 75' existing no change) 9 (Side Yard: 15' required, 13.4' proposed, 10 (Total Side Yard:30' required, 26.8' proposed) and 11 (Rear Yard: 35' required, 26' proposed)) for a deck at an existing single-family residence. The premises are located at 21 Clinton Avenue, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.06, Block 2, Lot 48; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 15, 2021 at which time the Board made the determination hereinafter set forth.

Jonathan Hodash, Architect, and Gary Fails appeared and testified.

The following documents were presented:

1. Plans labeled "The Fails Residence" dated April 30, 2021 with latest revision date of June 14, 2021 signed and sealed by Jonathan Hodash, Architect. (5 pages).

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco 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 Mr. Valentine and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Mr. Quinn, aye. Ms. Castelli was absent.

Jonathan Hodash, Architect, testified that the existing house was built in 1984 and it is on an undersized lot; that it has pre-existing non-conforming lot area, lot width, front yard, side yard, total side yard and rear yard; that the proposed decks are not encroaching any further into the existing setbacks of the side yard but the rear yard is changing from 32' to 26'; and the property is enclosed by greenery; that the proposed decks will not encroach on any sight lines on other houses in the area.

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Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio, lot area, lot width, side yard, total side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar decks have been constructed in the neighborhood.
2. The requested floor area ratio, lot area, lot width, side yard, total side yard and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar decks 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 variances.
4. The requested floor area ratio, lot area, lot width, side yard, total side yard and rear yard variances 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. Similar decks 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.

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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 floor area ratio, lot area, lot width, side yard, total side yard and rear yard variances are **APPROVED**; and **FURTHER RESOLVED**, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested floor area ratio, lot area, lot width, side yard, total side yard and rear yard variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Valentine, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Mr. Quinn, aye. Ms. Castelli was 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: September 15, 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 CLERK'S OFFICE
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FLOOR AREA RATIO VARIANCE IS NOT NECESSARY : 144 SQ. FT. SHEDS DO NOT COUNT IN FLOOR AREA RATIO; ACCESSORY STRUCTURE DISTANCE SET BACK VARIANCE APPROVED

To: Kier Levesque (Thomas)
49 Third Lane
Nyack, New York 10960

ZBA #21-81
Date: September 15, 2021
Permit #50598

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-81: Application of Glenn and Jeanne Thomas for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: .30 permitted, .33 proposed: floor area ratio variance not necessary for 144 sq. ft. shed) and from Section 5.227 (Accessory Structure set back: 5' required, 4' proposed) for a 10' x 12' shed and stone fireplace at an existing single-family residence. The property is located at 17 Bell Lane, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.07, Block 3, Lot 6 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, September 15, 2021 at which time the Board made the determination hereinafter set forth.

Glenn and Jeanne Thomas and Kier Levesque, Architect, appeared and testified.
The following documents were presented:

1. Plans labeled "Thomas Site Plan" dated June 25, 2021 signed and sealed by Kier B. Levesque, Architect. (1 page).
2. Drawing by JSA Consultants LLC signed and sealed by John S. Aletta, P.E. dated 10/12/2020.
3. A letter dated September 2, 2021 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated August 20, 2021 from Rockland County Planning Department signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated August 23, 2021 from Rockland County Health Department signed by Elizabeth Mello, P.E. Senior Public Health Engineer.
6. A letter dated August 12, 2021 from Rockland County drainage Agency signed by Shajan S. Thottakara P.E.
7. Two color pictures of the yard submitted by Mr. Thomas.

Mr. Sullivan, Chairman, made a motion to open the Public Hearing which motion was seconded by Mr. Bosco 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 Mr. Valentine, and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; and Mr. Quinn, aye. Ms. Castelli was absent.

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Kier Levesque testified that the applicant started some improvements in his back yard during Covid and was given a stop work order; that the shed was added to the floor area ratio since it was 10' x 12' since then the Town Board amended the Town Code pertaining to the size of sheds and therefore it was longer necessary to add it to the floor area ratio; and that the stone fireplace is the accessory structure that is too close to the side yard.

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 Mr. Bonomolo and carried unanimously.

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance is not necessary: (sheds up to 144 sq. ft. do not count in floor area ratio calculations) and Section 5.227 accessory structure distance from side/ rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar accessory structures have been constructed in the neighborhood.
2. The requested floor area ratio variance is not necessary: (Sheds up to 144 sq. ft. do not count in floor area ratio calculations) and Section 5.227 accessory structure distance from side/ rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar accessory structures 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 variances.
4. The requested floor area ratio variance is not necessary: (Sheds up to 144 sq. ft. do not count in floor area ratio calculations) and Section 5.227 accessory structure distance from side/ rear 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 accessory structures have been constructed in the neighborhood.

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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.

6.

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 structure distance from side/rear yard variance is APPROVED; and FURTHER RESOLVED, that the requested floor area ratio variance is not necessary as the Town Code now permits sheds up to 144 sq. ft. and that this 120 sq. ft. shed does not add to the floor area ratio calculations; 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 Section 5.227 accessory structure distance from side/rear yard variance is APPROVED ; and FURTHER RESOLVED, that the requested floor area ratio variance is not necessary as the Town Code now permits sheds up to 144 sq. ft. and that this 120 sq. ft. shed does not add to the floor area ratio calculations; was presented and moved by Mr. Quinn, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Valentine, aye; and Mr. Quinn, aye. Ms. Castelli was 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: September 15, 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

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**FLOOR AREA RATIO, FRONT YARD, REAR YARD AND BUILDING HEIGHT
VARIANCES APPROVED; TWO FRONT YARDS; UNDERSIZED LOT & LOT WIDTH
ACKNOWLEDGED Rear and side yard named at hearing**

To: John Perkins (Green)
P.O. Box 271
Tomkins Cove, New York 10986

ZBA #21-82
Date: September 15, 2021
Permit #51680

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-82: Application of Christopher and Joanne Green for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Columns 4 (Floor Area Ratio: .20 permitted, .243 proposed), 8 (Front Yard: 30' required, 21.5' proposed south side: 2ND front yard is Townline Road: no variance necessary); 11 (Rear Yard: 35' required, 27.7' existing on east side of house) Section 5.21(c) applies: (Building Height: 20' permitted, 22'7" proposed) for an addition to an existing single-family residence. The property is located at 8 Hillside Terrace, Nanuet, New York and is identified on the Orangetown Tax Map as Section 64.18, Block 1, 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, September 15, 2021 at which time the Board made the determination hereinafter set forth.

Christopher and Joanne Green and John Perkins, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Addition/Alterations of the Green Residence" dated September 25, 2020 with the latest revision date of June 16, 2021 signed and sealed by John Perkins, Architect. (3 pages).
2. Plot plan for proposed expansion Green dated 06/14/2021 signed and sealed by Jay A. Greenwell, PLS (1 page).
3. A letter dated September 2, 2021 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated September 9, 2021 from Rockland County Planning Department signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated August 23, 2021 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
6. A letter dated August 23, 2021 from Rockland County Department of Health signed by Elizabeth Mello, P.E., Senior Public "Health Engineer."
7. Five letters from neighbors in support of the application.

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

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environmental review. The motion was seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Mr. Quinn, aye; and Mr. Valentine, aye. Ms. Castelli was absent.

John Perkins, Architect, testified that his clients have lived in the house for 16 years; that they have two children; that they proposing to enlarge the size of the bedrooms and add additional living space, a garage and a foyer and front porch to the house; that the addition is for about 1,000 sq. ft.; that the house is a Cape Style house; that the addition will make the house look more like a colonial style house; that the number of bedrooms will remain the same; that they are adding additional closet space and a master bathroom upstairs and reconfiguring the exiting space to accommodate three bedrooms on the second floor; that downstairs they are enlarging the kitchen and adding a family room in the rear of the house; that the garage will not have any living space above it; that they are proposing a foyer and a front porch that will bump out six feet wide; and that many residents in this neighborhood have built similar additions.

Public Comment:

No public comment.

The Board discussed the property having two front yards and assisted the applicant in naming the rear and side yards.

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 floor area ratio, front yard, rear yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the undersized lot, lot width, two front yards and noted that similar additions have been constructed in the neighborhood. The two front yards were acknowledged and the side yard and rear yard were designated at the hearing.

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2. The requested floor area ratio, front yard, rear yard, and building height variances 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, lot width, two front yards and noted that similar additions have been constructed in the neighborhood. The two front yards were acknowledged and the side yard and rear yard were designated at the hearing.
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 floor area ratio, front yard and building height variances 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, lot width, two front yards and noted that similar additions have been constructed in the neighborhood. The two front yards were acknowledged and the side yard and rear yard were designated at the hearing.
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.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio, front yard, rear yard and building height variances are APPROVED and the Undersize lot, lot width, two front yards are 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.

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

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

The foregoing resolution to approve the application for the requested floor area ratio, front yard, rear yard and building height variances are APPROVED and the undersized lot, lot width, two front yards are acknowledged; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye and Mr. Valentine, aye. Ms. Castelli was 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: September 15, 2021

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By 
Deborah Arbolino
Administrative Aide

DISTRIBUTION:

APPLICANT
ZBA MEMBERS
SUPERVISOR
TOWN BOARD MEMBERS
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