

MINUTES  
ZONING BOARD OF APPEALS  
April 20, 2022

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

ABSENT: NONE

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

This meeting was called to order at 7: 00 P.M. by Mr. Sullivan, Chairman.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

NEW ITEMS:

HEIT-MARINEZ 11 Isabel Road Orangeburg, New York 74.14 / 2 / 8; R-15 zone	FLOOR AREA RATIO, REAR YARD, BUILDING HEIGHT VARIANCES APPROVED: UNDERSIZE LOT ACKNOWLEDGED	ZBA#22-22
BROSNA 624 Route 303 Blauvelt, New York 65.14 / 1 / 7; LIO zone	SIDE YARD, TOTAL SIDE YARD, AND SECTION 13.10B(4) VARIANCES APPROVED	ZBA#22-23
UMANA 57 Muroney Avenue Palisades, New York 77.20/ 2 / 73; R-15 zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED	ZBA#22-24
STEFANI 350 Oak Tree Road Tappan, New York 77.16 / 1 / 24; LIO zone	WITHDRAWN BY APPLICANT	ZBA#22-25

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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 application: 276 South Boulevard Site Plan, Critical Environmental Area, Upper Grandview, NY 71.05 / 1 / 41; R-22 zone; Tua Cucina Deck Dining Area Site Plan, 11-17 Van Wyck Road, Blauvelt, NY 69.20 / 2 / 32; R-15 zoning district; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

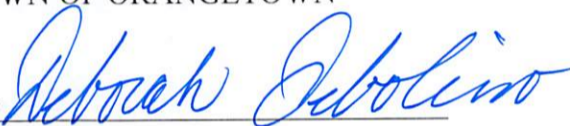
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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 8:15 P.M.

Dated: April 20, 2022

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

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**FLOOR AREA RATIO, REAR YARD AND BUILDING HEIGHT VARIANCES  
APPROVED: UNDERSIZED LOT ACKNOWLEDGED**

To: Constantin Minea (Martinez)  
571 Stellman Road  
River Vale, New Jersey 07675

ZBA #22-22  
Date: April 6, 2022  
Permit #BLDR-539-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-22: Application of Henry Martinez for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, R-15 District, Group M, Columns 4 (Floor Area Ratio: 20% permitted, 25% proposed), 11 (Rear Yard: 35' required, 27' proposed) and 12 (Building Height: 20' permitted, 25' proposed) (Section 5.21 Undersized lot applies; for an addition to an existing single-family residence. The property is located at 11 Isabel Road, Orangeburg, New York and is identified on the Orangetown Tax Map as Section 74.14, Block 2, Lot 8; in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 6, 2022 at which time the Board made the determination hereinafter set forth.

Henry Martinez and Constantin Minea, contractor, appeared and testified.

The following documents were presented:

1. Plans labeled "Residential Addition & Renovations for Heit-Martinez" dated January 11, 2022 with the latest revision date of February 15, 2022 signed and sealed by John J. Gilchrist, Architect. (3 pages).
2. A letter dated April 1, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
3. A letter dated March 22, 2022 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
4. A letter dated March 4, 2022 from Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
5. A sign off from Rockland County Highway Department signed by Dyan Rajasingham, dated March 1, 2022.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye and Mr. Valentine, aye. Mr. Sullivan was absent.

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Henry Martinez testified that they are proposing to extend the existing second floor which has slanted roof lines by raising the roof and changing the existing one bedroom into a space with two bedrooms and a bathroom; that there will be no change to the existing footprint of the house; that the house faces the Palisades Parkway; that there are other houses on Isabel with similar heights; that the house behind them is on the next block and is a high ranch style house; that they are on the corner and the addition will not intrude on any of the neighbors.

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.

Ms. Castelli 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 floor area ratio, 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 and noted that similar additions have been constructed in the neighborhood.
2. The Board acknowledged that Rockland County Planning wanted a response from the Palisades Interstate Park Commission and noted that the plans were sent to them for comment on February 24, 2022 and they did not comment by the meeting date; April 6, 2022.
3. The requested floor area ratio, 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 and noted that similar additions have been constructed in the neighborhood.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, rear yard and building height variances although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that similar additions have been constructed in the neighborhood.

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6. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

General Conditions:

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


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The foregoing resolution to approve the application for the requested floor area ratio, rear yard and building height variances are APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Quinn, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn; aye; and Mr. Valentine; aye. Mr. Sullivan 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: April 6, 2022

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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**SIDE YARD, TOTAL SIDE YARD AND SECTION 13.10B(4) VARIANCES  
APPROVED**

To: Patrick Benn (Brosna)  
225 Broadway Suite 1200  
New York, New York 10007

ZBA #22-23  
Date: April 6, 2022  
Permit #51365

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-23: Application of Brosna Construction for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, LIO District, Section 3.12, Group CC, Columns 9 ( Side Yard: 100' required, 41' previously granted), and 10 (Total Side Yard: 200' required, 139' previously granted, 130.3' proposed) and from Article XIII, Section 13.10 B (4): (Signage shall not be permitted on the right-of-way line that forms Route 303 or within the twenty-five foot vegetative buffer adjacent to such right-of-way line; for an addition and sign. The property is located at 624 Route 303, Blauvelt, New York and are identified on the Orangetown Tax Map as Section 65.14, Block 1, Lot 7 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 6, 2022 at which time the Board made the determination hereinafter set forth.

Patrick Benn and James Kirby, owner, appeared and testified.

The following documents were presented:

1. Plans labeled "Brosna Construction" dated April 14, 2021 with the latest revision date of 01/25/ 2022 signed and sealed by John R. Atzl, Land Surveyor and Ryan A., Nasher, P.E. (1 page).
2. A narrative for the Brosna Construction Addition not dated. (One page).
3. A computer generated picture of the proposed sign.
4. A memorandum dated November 8, 2021 from Jane Slavin, RA., Director, O.B.Z.P.A.E., Town of Orangetown.
5. Planning Board Decision #21-59 dated November 10, 2021.
6. Zoning Board of Appeals Decision #03-46 dated May 21, 2003.
7. A letter dated March 28, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz. Acting Commissioner of Planning.
8. A letter dated March 16, 2022 from Rockland County Health Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
9. A letter dated March 22, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
10. A sign off from Rockland County Highway Department dated March 1, 2022 from Dyan Rajasingham.

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

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On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye and Mr. Valentine, aye. Mr. Sullivan was absent.

Patrick Benn, Attorney, testified that the applicant is proposing a 400 sq. ft. addition to the northwest corner of the building; that there are three variances being requested; that two variances are required for the side yard and total side yard; that the building was granted variances in 2003 for a side yard of 41.8' and a total side yard of 139.8' and they are asking for a side yard of 32' and total side yard of 130.3'; that the proposed addition is on the north side of the property that abuts Birchwood Drive; that a sign was constructed on the property by the prior owner pursuant to plans that were approved in 2006; that the previous approval allowed a sign to be constructed abutting the designated street line of Route 303; that the prior owner constructed the sign in approximately 13" of concrete as the base; that the encroachment is beyond the designated street line and they are requesting a variance for this situation because the cost to move the sign would be exorbitant and a real hardship for the new owner; that the new owner did add the railroad ties and planting bed below the sign and that can be removed if the Board wants it removed; that the building was used as a showroom by the previous owner and now it is not used for the public; that the company presently has five employees and the addition is being constructed for storage only; that there is no parking by the dumpster and they will change the site plan to show that.

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.

Ms. Castelli 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, total side yard and Section 13.10 B (4) variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The change to the size of the building is to provide more storage; not more space

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for employees, or customers. The parking plan was discussed and clarified.

The sign location has not changed from the approval that was granted by the certificate of occupancy certificate No. 36352 as per ACABOR #06-32 dated June 6, 2006. Since the sign has existed without incident since 2006, the Board chose to override #1 and #2 of the Rockland County Department of Planning letter dated March 28, 2022. Re-using a building that had been vacated by a previous business that produced more traffic in and out than the new existing business is good for the Town.

2. The requested side yard, total side yard and Section 13.10 B(4) variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The change to the size of the building is to provide more storage; not more space for employees, or customers. The parking plan was discussed and clarified. The sign location has not changed from the approval that was granted by the certificate of occupancy certificate No. 36352 as per ACABOR #06-32 dated June 6, 2006. Since the sign has existed without incident since 2006, the Board chose to override #1 and #2 of the Rockland County Department of Planning letter dated March 28, 2022. Re-using a building that had been vacated by a previous business that produced more traffic in and out than the new existing business is good for the Town.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances. The change to the size of the building is to provide more storage; not more space for employees, or customers. The parking plan was discussed and clarified. The sign location has not changed from the approval that was granted by the certificate of occupancy certificate No. 36352 as per ACABOR #06-32 dated June 6, 2006. Since the sign has existed without incident since 2006, the Board chose to override #1 and #2 of the Rockland County Department of Planning letter dated March 28, 2022. Re-using a building that had been vacated by a previous business that produced more traffic in and out than the new existing business is good for the Town.
4. The requested side yard, total side yard and Section 13.10 B(4) 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 change to the size of the building is to provide more storage; not more space for employees, or customers. The parking plan was discussed and clarified. The sign location has not changed from the approval that was granted by the certificate of occupancy certificate No. 36352 as per ACABOR #06-32 dated June 6, 2006. Since the sign has existed without incident since 2006, the Board chose to override #1 and #2 of the Rockland County Department of Planning letter dated March 28, 2022. Re-using a building that had been vacated by a previous business that produced more traffic in and out than the new existing business is good for the Town.
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.

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6. The New York State Department of Transportation was sent a referral package on February 24, 2022 and did not comment by the meeting date of April 6, 2022.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard, total side yard and Section 13.10 B(4) 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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Mr. Bosco made a motion to Override #1 and #2 of the Rockland County Department of Planning letter dated March 28, 2022 because the sign has existed in its present location without incident, and has a certificate of occupancy since January 14, 2008; which motion was seconded by Mr. Quinn and carried unanimously.

The foregoing resolution to approve the application for the requested side yard, total side yard and Section 13.10 B(4) variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Valentine, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Bosco, aye. Mr. Sullivan 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: April 6, 2022

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

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

To: Wilder Umana  
57 Muroney Avenue  
Palisades, New York 10964

ZBA #22-24  
Date: April 6, 2022  
Permit #BLDR-660-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-24: Application of Wilder Umana for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 5.226( Fence Height: 4 ½' permitted in front yard: 6' fence proposed) at an existing single family residence. The property is located at 57 Muroney Avenue, New York and is identified on the Orangetown Tax Map as Section 77.20, Block 2, Lot 73 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, April 6, 2022 at which time the Board made the determination hereinafter set forth.

Wilder Umana appeared and testified.

The following documents were presented:

1. Plans labeled "Survey for Umana" dated September 13, 2021 signed and sealed by Anthony R. Celentano, P.L.S.. (1 page). (with the fence location highlighted)

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye and Mr. Valentine; aye. Mr. Sullivan was absent.

Wilder Umana testified that they have two dogs that are jumpers; that they work full time and have dog walkers that go to the house to care of the dogs during the day; that they also have a corner lot with two front yards; that they found this out when they applied for the permit for the fence; that the existing shed is 10' from the side yard and 5' from the rear yard; that the proposed fence does not block any views for traffic and none of his neighbors have objected to it.

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by 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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the applicant has two front yards and noted that similar fences have been constructed in the neighborhood.
2. The requested 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 Board acknowledged the applicant has two front yards and noted that 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 front yard fence height variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the applicant has two front yards and noted that 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.

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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 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.

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The foregoing resolution to approve the application for the requested front yard fence height variance is APPROVED and the two front yards are acknowledged; was presented and moved by Mr. Valentine, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, aye. Mr. Sullivan 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: April 6, 2022

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  
2022 APR 12 P 2:19  
TOWN CLERK'S OFFICE