

MINUTES  
ZONING BOARD OF APPEALS  
January 18, 2022

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

ABSENT: ROBERT BONOMOLO, JR.  
BILLY VALENTINE

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:

ABANKWA  
156 Howard Avenue  
Orangeburg, New York  
74.13 / 3 / 48; RG zone

FLOOR AREA RATIO, AND ZBA#23-04  
REAR YARD VARIANCE APPROVED

FERRANTE  
1031 Route 9W  
Upper Grandview, New York  
71.09 / 1 / 17; R-22 zone

FLOOR AREA RATIO, ZBA#23-05  
§5.227 VARIANCE FOR SHED (3.4')AND  
CARPORT (0') § 5.153 FOR CARPORT (8.5')  
AND PERGOLA ( 4.4') APPROVED  
APPLICANT MUST COMPLY WITH DOT  
LETTER DATED JANUARY 18, 2023

ROCKLAND CAR CARE  
INTERPRETATION  
522 North Middletown Road  
Pearl River, New York  
64.17 / 1 / 76; R-15 zone

CONTINUED ZBA#23-06

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

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The verbatim minutes, as recorded by the Board's official stenographer for the above hearings, are not transcribed.

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: La Famiglia Lanni Outdoor Dining Site Plan, 645 Main Street, Sparkill, NY 77.08-5-48.1; CS zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings.

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:30 P.M.

Dated: January 18, 2023

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 AND REAR YARD VARIANCES APPROVED**

To: Benjamin and Askisua Abankwa  
156 Howard Avenue  
Orangeburg, New York 10962

ZBA #23-04  
Date: January 18, 2023  
Permit #BLDR-494-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-04: Application of Benjamin and Askisua Abankwa for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 4 (Floor Area Ratio; 30% permitted, 41% proposed) and 9 (Rear Yard: 25' required, 17.5' proposed) for an addition to a single-family residence. Section 5.21 undersized lot applies. The premises are located at 156 Howard Avenue, Orangeburg, New York and identified on the Orangetown Tax Map as Section 74.13, Block 3, Lot 48 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, January 18, 2023 at which time the Board made the determination hereinafter set forth.

John Atzl, Land Surveyor, appeared and testified.

The following documents were presented:

1. Plans labeled " Benjamin & Askisua Abankwa" dated July 26, 2021 signed and sealed by Joh R. Atzl, L.S. and Ryan A. Nasher, P.E. ( 3 pages)
2. A cover letter dated December 5, 2022 from Atzl, Nasher & Zigler, P.C.

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

John Atzl testified that the applicants have lived in the house for eight years; that they love the neighborhood; that they are proposing to remove the existing deck in the rear of the house and replace it with a new larger deck and two upper floor additions; that one of the additions is approximately 342 sq. ft. located in the rear northwest corner of the dwelling and the other addition is approximately 63 sq. ft. located in the rear southwest corner of the dwelling; that the new deck will be approximately 289 sq. ft.; that the existing floor area ratio is .37 and the proposed is .41, which is a minimal change; that the lot is very undersized for the district, which makes the numbers appear high; that the rear yard required is 25 ft. and they are proposing a 17.5 ft. rear yard; that the property behind the house is owned by Orange & Rockland Utilities; that no building is taking place on that property and the rear yard variance does not negatively affect any properties in the area.

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 floor area ratio and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed additions are only 404 sq. ft., the lot is extremely undersized for the zoning district, which makes the floor area ratio numbers seem very high; the property in the rear of the house is owned by Orange & Rockland and the closest house in the rear is more than 65' away.
2. The requested floor area ratio and rear yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed additions are only 404 sq. ft., the lot is extremely undersized for the zoning district, which makes the floor area ratio numbers seem very high; the property in the rear of the house is owned by Orange & Rockland and the closest house in the rear is more than 65' away.
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 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 proposed additions are only 404 sq. ft., the lot is extremely undersized for the zoning district, which makes the floor area ratio numbers seem very high; the property in the rear of the house is owned by Orange & Rockland and the closest house in the rear is more than 65' away.
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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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio 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 and rear yard variances APPROVED; was presented and moved by Ms. Castelli, seconded by Mr. Quinn, and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bonomolo and Mr. Valentine 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: January 18, 2023

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, SECTION 5.227 AND 5.153 VARIANCES APPROVED

To: Donald Brenner (Ferrante)  
4 Independence Avenue  
Tappan, New York 10983

ZBA #23-05  
Date: January 18, 2023  
Permit #35475

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-05: Application of Ferrante Site Plan for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District, Group I, Section 3.12, Column 4 (Floor Area Ratio: .20 permitted, .23 existing) and from Section 5.227 (a building or structure accessory to a single-family ...may be located in any rear or side yard: an accessory structure is located in the front yard: carport is over property line by 1.3': a stucco shed is located 3.4' from the north property line and 5' is required); Section 5.153 ( Accessory structure shall be 15' from primary structure: carport is 8.5' from primary structure: Pergola is 4.4' from primary structure) The premises are located at 1031 Route 9W, Upper Grandview New York and identified on the Orangetown Tax Map as Section 71.09, Block 1, Lot 17 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, January 18, 2023 at which time the Board made the determination hereinafter set forth.

Donald Brenner, Attorney, and Jay Greenwell, Land Surveyor, appeared and testified.

The following documents were presented:

1. As built pool site plan dated August 27, 2020 with the latest revision date of 10/19/22 signed and sealed by Jay A. Greenwell, L.S.
2. Planning Board Decision #22-10 dated February 23, 2022.
3. A letter dated January 18, 2023 from New York State Department of Transportation signed by Brandon Robuck, PE, Permit Engineer.
4. A letter dated January 17, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated January 3, 2023 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. Sign-off "No comments at this time" from Dyan Rajasingham, Rockland County Highway Department and Liz Mello, Rockland County Health Department.
7. A copy of a filed subdivision map (Map 6386 B 111 P18) dated November 9, 1987 for 607 Homes "Final Average Density Minor Subdivision 607 Homes"

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 since the Planning Board noticed its intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning conducted SEQRA reviews and, on February 23, 2022 ( as set forth in PB#22-10) rendered environmental determinations of no significant adverse environmental impacts to result from the proposed land use actions (i.e. a "Negative Declarations" of "Neg Dec."), the ZBA is bound by the Planning Board's Neg Dec and the ZBA cannot require further SEQRA review pursuant to SEQRA Regulations § 617.6 (b)(3). The motion was seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Ms. Castelli, aye; and Mr. Sullivan, aye. Mr. Bonomo and Mr. Valentine were absent.

Donald Brenner testified that the Ferrante's purchased the lot in the 1990's with no violations; that in 2003 or 2004 they built a pool in the rear of the house with a permit; that the neighbor and the applicant had a fight and the neighbor stated that the permit should not have been issued because this is a critical environmental area; that no certificate of occupancy had been issued yet; that the previous Director of the Building Department was going to go out and do an inspection on the pool but it snowed and the inspection, did not take place; that since then, there is a new Director that has asked for a new application, new survey and for the applicant to go through the Planning Board; that they are in the process of doing this, and now these variances have been requested for conditions that have existing since the early 90's.

Jay Greenwell, Land Surveyor, testified that in the 80's and early 90's the Town policy asked for properties being developed to dedicated road widening strips to the Town; that the subdivision map for this property shows that a 12 ½' strip was supposed to be dedicated to the Town; that the carport is over that line at the north; that the garage on the property to the north is 8' into that area; that this property is well below the state highway property by approximately 15'; that they will comply with the DOT and they have prepared a fully designed stormwater plan signed and sealed by Paul Gdanski dated May 13, 2022; that the subdivision map dated November 5, 1987 shows the shed existed in that exact location prior to the house being purchased by Dr. Ferrante; and that they would request an override of #1, #2 and #3 of the Rockland County Department of Planning letter dated January 17, 2023 signed by Douglas J. Schuetz for the following reasons: (1) the application was submitted to legalize the pool and the building department has added the other structures that the applicant is requesting to be legalized; (2) The floor area ratio is not being disputed and is being requested; (3) the conditions have existed since some time in the 1990's; which must be taken into consideration.

Public Comment:

No public comment.

The Board had a long discussion about the topography of this lot and many other lots along this section of the state highway; that the likelihood of the road being widened is not very likely; that

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 floor area ratio, Sections 5.227 & 5.153 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The shed has existed in its present location since at least November 5, 1987 as evidenced by the subdivision map that was submitted at the hearing; the requested variances are for structures that have existed for some time without incident, the carport and trellis may exist on property that was dedicated to the Town of Orangetown, the applicant should file out if this is true and if it is, should file a hold harmless with the highway department. This Board has jurisdiction to grant the variances only to the property line. The pool is constructed on a



flat portion of the property and the applicant is submitting a drainage plan dated may 13, 2022 signed and sealed by Paul Gdanski, PE to the Planning Board. The applicant must comply with the Department of Transportation letter dated January 18, 2023.

2. The requested floor area ratio, Sections 5.227 & 5.153 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The shed has existed in its present location since at least November 9, 1987 as evidenced by the subdivision map that was submitted at the hearing; the requested variances are for structures that have existed for some time without incident, the carport and trellis may exist on property that was dedicated to the Town of Orangetown, the applicant should find out if this is true and if it is, should file a hold harmless with the highway department. This Board has jurisdiction to grant the variances only to the property line. The pool is constructed on a flat portion of the property and the applicant is submitting a drainage plan dated may 13, 2022 signed and sealed by Paul Gdanski, PE to the Planning Board.
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, Sections 5.227 & 5.153 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 shed has existed in its present location since at least November 9, 1987 as evidenced by the subdivision map that was submitted at the hearing; the requested variances are for structures that have existed for some time without incident, the carport and trellis may exist on property that was dedicated to the Town of Orangetown, the applicant should find out if this is true and if it is, should file a hold harmless with the highway department. This Board has jurisdiction to grant the variances only to the property line. The pool is constructed on a flat portion of the property and the applicant is submitting a drainage plan dated May 13, 2022 signed and sealed by Paul Gdanski, PE to the Planning Board.
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, Sections 5.227 & 5.153 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.

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(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.

The foregoing resolution to approve the application for the requested floor area ratio, Sections 5.227 & 5.153 variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; and Ms. Castelli, aye. Mr. Bonomolo and Mr. Valentine 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: January 18, 2023

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-N.A

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

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