

MINUTES  
ZONING BOARD OF APPEALS  
February 15, 2023

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

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

CONTINUED ITEM:

ZAPATA 17 Andre Hill Road Tappan, New York 77.10 / 3 / 76.1; R-15 zone	FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD AND BUILDING HEIGHT VARIANCES APPROVED UNDERSIZED LOT ACKNOWLEDGED WITH SPECIFIC DRAINAGE AND ARBORIST CONDITIONS	ZBA#22-76
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NEW ITEMS:

RISTOVSKI 1 O'Grady Court Pearl River, New York 69.08 / 1 / 2.2; R-40 zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED	ZBA#23-09
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ST. THOMAS AQUINAS COLLEGE 125 Route 340 Sparkill, New York 74.16 / 1 / 1; R-40 zone	FLOOR AREA RATIO VARIANCE APPROVED PARKING VARINCE GRANTED IN ZBA #19-46 ACKNOWLEDGED	ZBA#23-10
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DE LUCCA 27 Windsor Brook Lane Tappan, New York 77.07 / 3 / 15; R-15 zone	CONTINUED	ZBA#23-11
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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.

TOWN CLERK'S OFFICE  
2023 FEB 27 P 12:57  
TOWN OF ORANGE TOWN

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: 1 Ramland Road Site Plan- 1 Ramland Road, Orangeburg, NY 73.20 / 1 / 24; LIO zone; 800 Bradley Hill Road Site Plan, 800 Bradley Hill Road, Blauvelt, NY 65.18 / 1 / 3; LI 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 8:55 P.M.

Dated: February 15, 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

TOWN OF ORANGETOWN  
2023 FEB 27 P 12:51  
TOWN CLERK'S OFFICE

**SECTION 5.21 UNDERSIZE LOT APPLIES: FLOOR AREA RATIO, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED**

To: Juan Zapata  
30 Schriever Lane  
New City, New York 10956

ZBA #22-76  
Date: December 7, 2022 & February 15, 2023  
Permit #BLDR-2047-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#22-76: Application of Juan Zapata for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, (Section 5.21 Undersized lot applies) Columns 4 ( Floor Area Ratio: 20% permitted, 24% proposed), 8 (Front Yard: 30' required, 22' existing for an existing detached garage) and 9 (Side Yard: 15' required, 13' proposed), 10 (Total Side Yard: 30' required, 22' proposed) and from Section 5.21 (e) ( Building Height: 20' permitted, 26' proposed) for a new single-family residence with an existing accessory garage and shed ( 10' x 18' shed in rear of property shall be removed) on the property. The premises are located at 17 Andre Hill Road, Tappan, New York and identified on the Orangetown Tax Map as Section 77.10, Block 3, Lot 76.1 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, December 7, 2022 at which time the Board made the determination hereinafter set forth.

Juan Zapata and Joseph Grabowski, Architect, appeared and testified.

The following documents were presented:

1. A survey labeled "Site Plan for Juan Zapata": by Robert Sorace dated August 9, 2022 revised October 10, 2022, signed and sealed by Robert Sorace, Land Surveyor.
2. Architectural plans dated July 4, 2022 signed and sealed by Joseph E. Grabowski, Architect, ( 3 pages).
3. A letter dated December 2, 2022 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated November 10, 2022 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
5. A letter dated November 22, 2022 from Rockland County Sewer District No.1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated November 23, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
7. An e-mail dated November 30, 2022 from Alina Oquendo, Jose Oquendo and Tania Denda at 131 Old Tappan Road, Tappan, NY with privacy and drainage concerns about the project.

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

TOWN CLERK'S OFFICE  
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TOWN OF ORANGETOWN

Juan Zapata testified that he would like to build a single-family residence for him and his family; that the proposed house is not out of line from the other houses that exist in the neighborhood; that some houses are smaller and some are larger; that this house will be for his family; that there are many houses with similar setbacks; that this lot was not recently subdivided; it has existed as a separate tax lot for years with the garage on it; that he would like to keep the existing garage and build a single-family house; that the north property line has many existing trees and heavy vegetation; that the Tulip tree is 175 years old and they do not want to damage the root system; that the house is being proposed at its present location accordingly; that he is proposing a 2 ½ bath, three bedroom house with a den, living room open concept kitchen and laundry room; that there are many existing houses higher than the house he is proposing; that he will remove the shed that he was planning to re-locate if that is what the Board recommends; that he will supply a drainage plan and an arborist letter and he would like to request a continuance.

Public Comment:

George Fernandez, 149 Old Tappan Road, Tappan NY, testified that he has major objections to the proposal; that the disruption to the block on a hilly street will be awful; that the run-off and dust will damage the neighborhood; that the tulip tree that borders between his house and this proposal could be jeopardized by the house; that the roots of that tree go everywhere; that the historical character of the neighborhood should be preserved; that this proposal sets a bad precedent; that this is adding insult to injury and affect the entire neighborhood.

Christina Malinverno, 16 Andre Hill, testified that she is concerned about the excavation and the tulip tree and the damage to its root system and the slope and stability of the soil and drainage and she supports all that Mr. Fernandez stated.

Rainey Fernandez, 149 Old Tappan Road, Tappan testified that she agrees with everything her husband and neighbor said.

Steven Navedo, 20 Andre Hill Road, testified that he lives in the house directly across the street; that it is a very narrow street; that currently if a car is parked in front of the house, I have to do acrobatics to get out of my driveway; that there will be a problem when there are construction vehicles on the site; that he won't have them parking in front of his house; that 23 years ago there was a lot less traffic; that more traffic to Jersey comes through the road now; that the tree is important for the environment and four variances seems to be forcing things.

Alina Oquedono, 131 Old Tappan Road, testified that she submitted the email; that the aerial views that were submitted are deceiving; that they are top heavy canopy and the lower area is a clear view from our property to the applicants; that she would like to request privacy fencing; that from their deck they will have birds eye view into her backyard; that the water runs down her driveway now; that the construction could be catastrophic for; that they use sandbags for run-off to her property now.

Scott Hoffer, 161 Old Tappan Road, testified that he purchased his house nine months ago and he is concerned with the size of the proposed house on such a small lot; that 20% coverage should be observed for the integrity of the neighborhood; that it is a historic neighborhood; that the drainage in area is so that it runs across the street downhill and could be disastrous for neighbors on Old Tappan Road.

Jose Oquedono, 131 Old Tappan Road, testified that the proposed structure will look like it is squeezed into the lot; that he has concerns about water drainage, freezing rain and snow removal; that the neighborhood is historical and should be kept that way.

TOWN CLERK'S OFFICE  
TOWN OF ORANGETOWN  
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Items submitted for review on February 15, 2023:

1. A site plan dated August 9, 2022 with the latest revision date of December 21, 2022 signed and sealed by Robert E. Sorace, Land Surveyor.( 1 page)
2. Drainage Plan dated 12/27/2022 signed and sealed by Paul Gdanski, P.E., PLLC. ( 1 page)
3. A letter dated 12/19/ 2022 from John Reeves, ISA Certified Arborist #NJ-1214A regarding the large Tulip tree on the property.
4. A memorandum dated January 6, 2023 from Bruce Peters, P.E., DEME, Town of Orangetown.
5. A letter dated February 14, 2023 from Ken DeGennaro, P.E., Brooker Engineering, Consulting Engineers for the Town of Orangetown.( 2 pages)
6. An email dated February 14, 2023 from Alina Oquendo, 131 Old Tappan Road, Tappan, NY
7. An e-mail dated February 15, 2023 from Raine Fernandez, 149 Old Tappan Road, Tappan, NY.
8. A picture taken from the location of the proposed deck

Juan Zapata and Joseph Grabowski, Architect, appeared and testified.

The following board members were present for the February 15, 2023 hearing:

Dan Sullivan, Michael Bosco, Billy Valentine, Tom Quinn, Patricia Castelli and Robert Bonomolo.

Also present: Denise Sullivan, Deputy Town Attorney, Deborah Arbolino, Administrative Aide, and Anne Marie Ambrose, Official Stenographer.

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

Juan Zapata testified that at the last hearing, the Board requested a drainage plan for the site from a New York State Licensed Engineer and he submitted that plan; that he also submitted a letter from a certified arborist regarding the large tulip tree on the property; that the shed was eliminated from the plans, which brought down the floor area ratio slightly; that he brought a picture to show the Board the distance between where is proposed deck would be and the Oquendo property; that a six foot fence would not afford privacy because of the difference in elevation; that he would gladly have the arborist come out to the property to say exactly where the silt fence should be installed to protect the large tulip tree during construction; that he would agree to address the comments from the engineers letter; and that he would agree to plant the green giant arborvitae along the 15-foot section of the North property line adjacent to the proposed deck as instructed by the arborist. ( see plans marked at meeting 2/14/2023)

Public Comment:

Alina Oquendo, 131 Old Tappan Road, Tappan, NY testified that she owns the only legal three family residence in Tappan; that they were very pleased to see a water management plan even though it is very confusing; that if it works that would be great; that she has lived in the house for 49 years and has seen how noise and light travel in the area; that a privacy fence would benefit both herself and the applicant; that there is also many deer in the area; and that she would be fine with a natural fence also.

TOWN OF ORANGETOWN

George Fernandez, 149 Old Tappan Road, Tappan NY, testified that he has concerns about the very large tulip tree getting disturbed and falling onto his house; that he is also concerned about water run-off and the mess of dust and dirt during construction; that the construction vehicles could damage the roots of the tree and put it and his house in jeopardy.

Raine Fernandez, 149 Old Tappan Road, Tappan, NY, testified that she is very concerned about the large tulip tree getting damaged during construction.

Dan Sullivan, stated that the applicant has agreed to have the arborist come out to the property and give instructions on where the silt fence should be placed to protect the tree during construction and further explained that the silt fence controls some of the dirt and dust and the tree roots.

The Board members made personal inspections of the premises the week before each 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. 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 Section 5.21 Undersize lot, floor area ratio, front yard, side yard, total side yard and building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to address all of the comments from the February 14, 2023 letter from Ken DeGennaro, P.E., consulting engineer for the Town of Orangetown and to take instruction from John Reeves, Certified Arborist on placement of the silt fence to protect the existing Tulip tree during construction and on how many Green Giant Arborvitae should be planted on the approximate 15' area on the north side of the property with a six-foot side yard closest to the proposed deck to afford privacy screening for the property at 131 Old Tappan Road and the applicant. The 10' x 18' shed that was proposed to be moved to the rear of the property has been removed from the application.
2. The following items shall be addressed and added to the plans prior to issuance of a building permit: (a) Show a swale providing positive drainage around the South and West side of the house; (b) Show the path of stormwater overflows from the detention system.;(c) Since the overflows will travel to off-site developed areas, increase the factor of safety in the storm water design. (d) Provide a level spreader for the overflows to avoid concentrated storm water flow to neighboring properties.(e) Provide a grading plan with the proposed contours and spot grades. (f) Provide pipe diameters, slopes, and clean outs in the storm drainage system; (g) The grading in the 13 feet side yard abutting the southern property line is very tight. Show how this can be graded in order to provide positive drainage away from the building without disturbing the neighboring property. A construction easement and/or retaining wall might be required at this location. (h) Show more detail for the grading and steps at the southern door located near the southern property line. No landing is shown at the door location; verify that no landing is needed and the drainage can be directed away from the home and around the stairs with no impact to the southern property line. (i) Provide the

North arrow and graphic scale on the plans. Correct the map scale in the title block on the Drainage Plan. (j) Provide dimensions for the driveway widening. (k) Show the tree cluster with the tree house located southeast of the shed to be removed. This may be located on the adjacent property but portions appear to be on the subject property and may be impacted by the proposed construction. (l) Provide plan view and section view of the cul-tec system with dimensions and elevations. Include invert elevations of the cul-tec units and pipe connections between units. (m) Provide test pit data to verify separation to groundwater and percolation rates. (n) Provide the stormwater maintenance requirements on the Drainage Plan. (o) Show the footing drain outlet. The basement is in a deep cut and may encounter groundwater; there is a possibility of continuance groundwater flow through the underdrain. This should be designed to not direct groundwater flows to neighboring properties without mitigation.

3. The requested Section 5.21 Undersize lot, floor area ratio, front yard, side yard, total side 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 applicant has agreed to address all of the comments from the February 14, 2023 letter from Ken DeGennaro, P.E., consulting engineer for the Town of Orangetown and to take instruction from John Reeves, Certified Arborist on placement of the silt fence to protect the existing Tulip tree during construction and on how many Green Giant Arborvitae should be planted on the approximate 15' area on the north side of the property with a six-foot side yard closest to the proposed deck to afford privacy screening for the property at 131 Old Tappan Road and the applicant. The 10' x 18' shed that was proposed to be moved to the rear of the property has been removed from the application.
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 Section 5.21 Undersize lot, floor area ratio, front yard, side yard, total side yard and building 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 applicant has agreed to address all of the comments from the February 14, 2023 letter from Ken DeGennaro, P.E., consulting engineer for the Town of Orangetown and to take instruction from John Reeves, Certified Arborist on placement of the silt fence to protect the existing Tulip tree during construction and on how many Green Giant Arborvitae should be planted on the approximate 15' area on the north side of the property with a six-foot side yard closest to the proposed deck to afford privacy screening for the property at 131 Old Tappan Road and the applicant. The 10' x 18' shed that was proposed to be moved to the rear of the property has been removed from the application.
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.

TOWN OF ORANGETOWN  
2023 FEB 27 P 12:51  
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested Section 5.21 Undersize lot, floor area ratio, front yard, side yard., total side yard and building height variances are APPROVED with the following SPECIFIC CONDITION: : (a) Show a swale providing positive drainage around the South and West side of the house; (b) Show the path of stormwater overflows from the detention system.;(c) Since the overflows will travel to off-site developed areas, increase the factor of safety in the storm water design. (d) Provide a level spreader for the overflows to avoid concentrated storm water flow to neighboring properties.(e) Provide a grading plan with the proposed contours and spot grades. (f) Provide pipe diameters, slopes, and clean outs in the storm drainage system; (g) The grading in the 13 feet side yard abutting the southern property line is very tight. Show how this can be graded in order to provide positive drainage away from the building without disturbing the neighboring property. A construction easement and/or retaining wall might be required at this location. (h) Show more detail for the grading and steps at the southern door located near the southern property line. No landing is shown at the door location; verify that no landing is needed and the drainage can be directed away from the home and around the stairs with no impact to the southern property line. (i) Provide the North arrow and graphic scale on the plans. Correct the map scale in the title block on the Drainage Plan. (j) Provide dimensions for the driveway widening. (k) Show the tree cluster with the tree house located southeast of the shed to be removed. This may be located on the adjacent property but portions appear to be on the subject property and may be impacted by the proposed construction. (l) Provide plan view and section view of the cul-tec system with dimensions and elevations. Include invert elevations of the cul-tec units and pipe connections between units. (m) Provide test pit data to verify separation to groundwater and percolation rates. (n) Provide the stormwater maintenance requirements on the Drainage Plan. (o) Show the footing drain outlet. The basement is in a deep cut and may encounter groundwater; there is a possibility of continuance groundwater flow through the underdrain. This should be designed to not direct groundwater flows to neighboring properties without mitigation; AND take instruction from John Reeves, Certified Arborist on placement of the silt fence to protect the existing Tulip tree during construction and on how many Green Giant Arborvitae should be planted on the approximate 15' area on the north side of the property with a six-foot side yard closest to the proposed deck to afford privacy screening for the property at 131 Old Tappan Road; 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.

TOWN OF ORANGETOWN  
1923 FEB 27 P 12:57  
TOWN CLERK'S OFFICE



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

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

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

TOWN OF ORANGETOWN  
2023 FEB 27 P 12:57  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested Section 5.21 undersize lot, floor area ratio, front yard, side yard, total side yard and building height variances are APPROVED with the following SPECIFIC CONDITION: (a) Show a swale providing positive drainage around the South and West side of the house; (b) Show the path of stormwater overflows from the detention system.;(c) Since the overflows will travel to offsite developed areas, increase the factor of safety in the storm water design. (d) Provide a level spreader for the overflows to avoid concentrated storm water flow to neighboring properties.(e) Provide a grading plan with the proposed contours and spot grades. (f) Provide pipe diameters, slopes, and clean outs in the storm drainage system; (g) The grading in the 13 feet side yard abutting the southern property line is very tight. Show how this can be graded in order to provide positive drainage away from the building without disturbing the neighboring property. A construction easement and/or retaining wall might be required at this location. (h) Show more detail for the grading and steps at the southern door located near the southern property line. No landing is shown at the door location; verify that no landing is needed and the drainage can be directed away from the home and around the stairs with no impact to the southern property line. (i) Provide the North arrow and graphic scale on the plans. Correct the map scale in the title block on the Drainage Plan. (j) Provide dimensions for the driveway widening. (k) Show the tree cluster with the tree house located southeast of the shed to be removed. This may be located on the adjacent property but portions appear to be on the subject property and may be impacted by the proposed construction. (l) Provide plan view and section view of the cul-tec system with dimensions and elevations. Include invert elevations of the cul-tec units and pipe connections between units. (m) Provide test pit data to verify separation to groundwater and percolation rates. (n) Provide the stormwater maintenance requirements on the Drainage Plan. (o) Show the footing drain outlet. The basement is in a deep cut and may encounter groundwater; there is a possibility of continuance groundwater flow through the underdrain. This should be designed to not direct groundwater flows to neighboring properties without mitigation; AND take instruction from John Reeves, Certified Arborist on placement of the silt fence to protect the existing Tulip tree during construction and on how many Green Giant Arborvitae should be planted on the approximate 15' area on the north side of the property with a six-foot side yard closest to the proposed deck to afford privacy screening for the property at 131 Old Tappan Road; was presented and moved by Mr. Sullivan, seconded by Mr. Bonomolo and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

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

DATED: February 15, 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

TOWN CLERK'S OFFICE  
2023 FEB 27 P 12:57  
TOWN OF ORANGETOWN

**FRONT YARD FENCE HEIGHT VARIANCE APPROVED**

To: Maureen Nicolich (Ristovski)  
3 Nickolaus Lane  
Nanuet, New York 10954

ZBA #23-09  
Date: February 15, 2023  
Permit #BLDR-1897-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-09: Application of Klaudet Ristovski for a variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group E, Section 5.226 ( Front Yard Fence Height: 4 ½’ permitted, 6’ proposed) for a six-foot fence in a front yard at an existing single-family residence. The premises are located at 1 O’Grady Court, Pearl River, New York and identified on the Orangetown Tax Map as Section 69.08, Block 1, Lot 2.2 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 15, 2023 at which time the Board made the determination hereinafter set forth.

Steve Griggs, Landscape Architect, appeared and testified.

The following documents were presented:

1. Copy of boundary and topography survey dated 7/21/2021 by Steven J. Collazuol, P.E. & L.S.
2. Fence Plan Rev 2 Ristovski Residence 1 O’Grady Court Orangeburg, N.Y. dated 12/11/22 by Steve Griggs Design not signed or sealed.
3. ZBA Decision #19-111 dated December 4, 2019.
4. A letter dated February 8, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
5. A letter dated January 13, 2023 from Rockland County Highway Department signed by Dyan Rajasingham, Engineer III.
6. A letter dated February 14, 2023 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
7. A sign off sheet, “no comments at this time” dated February 15, 2023 from Elizabeth Mello, Rockland County Health Department.
8. A picture of the existing fence.

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

Steve Griggs, Landscape Architect, testified that the applicants are proposing the six-foot fence in the front yard for several reasons; first for noise and second because the property is a corner lot and has more than one front yard; that the proposed fence would be a double-sided PVC and hidden by the green giant arborvitae; and that the placement of the fence is approximately 50’ from the road.

Public Comment:

No public comment.

TOWN OF ORANGETOWN  
2023 FEB 27 PM 12:58  
TOWN CLERK'S OFFICE

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

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

Mr. Sullivan made a motion to close the Public Hearing which motion was seconded by 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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. This property has three front yards and the proposed fence shall be installed approximately 50' from the road. The applicant must obtain a work permit from Rockland County Highway Department prior to installing the proposed fence on the property.
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. . This property has three front yards and the proposed fence shall be installed approximately 50' from the road. The applicant must obtain a work permit from Rockland County Highway Department prior to installing the proposed fence on the property.
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. . This property has three front yards and the proposed fence shall be installed approximately 50' from the road. The applicant must obtain a work permit from Rockland County Highway Department prior to installing the proposed fence on the property.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN OF ORANGETOWN  
173 FEB 27 P 12:58  
TOWN CLERK'S OFFICE

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard fence height variance is APPROVED with the Specific Condition that the applicant obtain a work permit from the Rockland County Highway Department prior to installing the fence in the property; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

TOWN OF ORANGETOWN  
2023 FEB 27 P 12:58  
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested front yard fence height variance is APPROVED with the Specific Condition that the applicant obtain a work permit from the Rockland County Highway Department prior to installing the fence in the property; was presented and moved by Mr. Bosco, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

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

DATED: February 15, 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-Ken L.

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

TOWN OF ORANGETOWN  
2023 FEB 27 P 12:58  
TOWN CLERK'S OFFICE

**FLOOR AREA RATIO VARIANCE APPROVED  
PARKING VARIANCE ACKNOWLEDGED**

To: Edward Arcari (St. Thomas Aquinas)  
1 Katherine Street  
Little Ferry, New Jersey 07643

ZBA #23-10  
Date: February 15, 2023  
Permit #BLDR-1955-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-10: Application of St. Thomas Aquinas Site Plan for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-40 District, Group H, Section 3.12, Column 4 (Floor Area Ratio: .15 permitted, .194 existing, .195 proposed) and from Section 3.11, R-40 District, Column 6 # 4 (Parking Spaces: 820 required, 740 existing,: variance granted in ZBA#19-46 dated May 15, 2019). The premises are located at 125 Route 340, Sparkill, New York and identified on the Orangetown Tax Map as Section 74.16, Block 1, Lot 1 in the R-40 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 15, 2023 at which time the Board made the determination hereinafter set forth.

Anthony Iovino, P.E., and Joseph Donini, Senior Vice President for Administration Treasurer, appeared and testified.

The following documents were presented:

1. Architectural plans labeled "St. Thomas Aquinas College Observation Classroom" signed and sealed by Edward Anthony Arcari, Architect, dated 12/20/2022 A.O, A.1,A.2, S.1, S.2, S.3, S.4.
2. Revised Zoning Table dated 12/14/22 SK.221214A not signed or sealed by Arcari + Iovino.
3. A letter dated February 9, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated February 14, 2023 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
5. A letter dated November 16, 2022 from Rockland County Center for Environmental Health signed by Elizabeth Mello, P.E., Senior Public Health Engineer.
6. A "no comments at this time" dated January 13, 2023 from Dyan Rajasingham, Rockland County Highway Department.

Mr. Sullivan, Chairman, 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, 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 December 14, 2022 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 Ms. Castelli and carried as follows: Ms. Quinn, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Sullivan, aye; Mr. Bosco, aye.

TOWN OF ORANGETOWN

Joseph Donini testified that they are proposing to build a 1200 sq. ft. classroom that will house a domed telescoped; that there will be 30 seats in the classroom; that the domed telescope and the money to construct the classroom were given to the college by a Donor; that this program will augment the STEM classes and the space will be ancillary space that shall augment existing programs; that the telescope is high power and controlled digitally with a joystick; that the room will be slightly larger than this room and will be used at night; that there are less students on campus with cars in the evening; that the parking will not be negatively affected by the small additional classroom; and that it will not effect any wetlands.

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 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The increase in floor area is insignificant and since the classroom will be in use in the evening will not have a negative impact on parking.
2. The Board after discussion decided to override comments #1, #2, #3 and #4 of the Rockland County Department of Planning letter dated February 9, 2023 for the following reasons: #1- the addition of a 1200 sq. ft. classroom on a campus this large is insignificant; there has never been a parking problem at the college and no reports of cars parking on the State right-of-way.; #2 – a referral was sent to the DOT on January 5, 2023 and the agency did not respond by the meeting date February 15, 2023; #3- the area of construction of the 1200 sq. ft. classroom is no where near the Sparkill Creek and the referral was sent to Rockland County drainage Agency on January 5, 2023 and they did not comment; #4-although there may be federal wetlands on the site, they are not near this proposal; therefore Ms. Castelli made a motion to override #1, #2, #3 and #4 of Rockland County Department of Planning letter dated February 9, 2023 ; which motion was seconded by Mr. Bosco and carried unanimously.
3. The requested floor area ratio variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The increase in floor area is insignificant and since the classroom will be in use in the evening will not have a negative impact on parking.
4. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variance.

TOWN OF ORANGETOWN  
2023 FEB 27 P 12:58  
TOWN CLERK'S OFFICE



5. The requested floor area ratio 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. The increase in floor area ratio is insignificant and since the classroom will be in use in the evening will not have a negative impact on parking.
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 parking requirements acknowledged and the floor area ratio 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.

The foregoing resolution to approve the application for the requested floor area ratio variance and parking requirements is APPROVED; and to override comments #1, #2, #3 and #4 of the Rockland County Department of Planning letter dated February 9, 2023 for the following reasons: #1- the addition of a 1200 sq. ft. classroom on a campus this large is insignificant; there has never been a parking problem at the college and no reports of cars parking on the State right-of-way.; #2 – a referral was sent to the DOT on January 5, 2023 and the agency did not respond by the meeting date February 15, 2023; #3- the area of construction of the 1200 sq. ft. classroom is no where near the Sparkill Creek and the referral was sent to Rockland County drainage Agency on January 5, 2023 and they did not comment; #4-although there may be federal wetlands on the site, they are not near this proposal; was presented and moved by Ms. Castelli, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

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

DATED: February 15, 2023

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
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