

MINUTES
ZONING BOARD OF APPEALS
May 17, 2023

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

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:

HERDER FENCE
1028 Route 9W
Nyack, New York
71.09 / 1 / 31; R-22 zone

FRONT YARD FENCE ZBA#23-12
HEIGHT VARIANCE APPROVED

CASSIDY
12 Lang Terrace
Pearl River, New York
69.05 / 3 / 59; R-15 zone

SECTION 9.2 EXPANSION OF ZBA#23-13
NON-CONFORMING BULK &
SECTION 5.21 (c) & (e) UNDERSIZED LOT
BUILDING HEIGHT
PRE-EXISTING CONDITIONS ACKNOWLEDGED

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.

DAN SULLIVAN, CHAIRMAN
PATRICIA CASTELLI, CLERK
BILLY VALENTINE, CLERK

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: 622 Route 303 Site Plan, 622 Route 303, Blauvelt, NY 65.14 / 1 / 11.3 & 11.2; 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 7:30 P.M.

Dated: May 17, 2023

ZONING BOARD OF APPEALS
TOWN OF ORANGETOWN

By *Deborah Arbolino*

Deborah Arbolino, Administrative Aide

DISTRIBUTION:
APPLICANT
TOWN ATTORNEY
DEPUTY TOWN ATTORNEY
TOWN BOARD MEMBERS
BUILDING INSPECTOR (Individual Decisions)
Rockland County Planning

TOWN OF ORANGETOWN
2023 MAY 19 A 11:43
TOWN CLERK'S OFFICE

FRONT YARD FENCE HEIGHT VARIANCE APPROVED

To: Jade Herder
1028 Route 9W
Nyack, New York 10960

ZBA #23-12
Date: May 17, 2023
Permit #BLDR-1809-22

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#23-12: Application of Jade Herder for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 5.226 (Front Yard Fence Height: 4 ½' permitted, 6' proposed) for a fence in the front yard of an existing single-family residence. The premises are located at 1028 Route 9W, Nyack, New York and identified on the Orangetown Tax Map as Section 71.09, Block 1, Lot 31 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 17, 2023 at which time the Board made the determination hereinafter set forth.

Jade and Oliver Herder appeared and testified.

The following documents were presented:

1. Copy of survey dated March 23, 2021 by Anthony Celentano, PLS with fence drawn on it. (1 page)
2. Eight color photos of the site and the proposed fence with a survey attached, submitted at the hearing by the applicants.
3. A letter dated May 5, 2023 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A " No future correspondence for this site should be sent to this agency" from Dyan Rajasingham, Rockland County Highway Department, dated April 18, 2023.
5. A " No comments at this time " from New York State Department of Transportation signed by Brandon Robuck dated April 17, 2023.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that the foregoing application is a Type II action exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (11), (12), (16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; and Mr. Quinn, aye.

Oliver Herder testified that they have photo copies of pictures to show the Board; that Route 9W is a very busy and noisy road and they would like to install a six-foot fence to block some of the noise and to protect their pets and in the future they would like to have children; that the first picture shows blue tape where the 4 ½' fence would go to and the red line on my hat shows where the 6' fence would go to; that the second picture shows how far back from the road the fence would be installed; and the next two pictures show the proposed fence height from the sides of the property; the next few pictures shows the location of the proposed fence from the road, which shows that it is set back far enough not to interfere with traffic; and the next picture shows a picture of the proposed fence, but their fence would have diagonal boards but would look the same on the inside and the outside; and the last attachment is a copy of our survey; that the front lawn was covered with 10' tall knot weed when they moved in and that has been removed; that there is an easement at the end of their driveway and the fence will not block that easement.

APPROVED AND ORDERED:
JULIE M. QUINN, Chairman
MAY 17 2023

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 front yard fence height variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The requested fence shall be set back approximately 13' from the property line with an additional 6' to Route 9W and shall not block the easement to the end of the driveway.
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 requested fence shall be set back approximately 13' from the property line with an additional 6' to Route 9W and shall not block the easement to the end of the driveway.
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 requested fence shall be set back approximately 13' from the property line with an additional 6' to Route 9W and shall not block the easement to the end of the driveway.
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.

FORBES S. W. S. T. S. N. A. G. I.
C. H. V. S. T. A. V. E. S. T.
TOWN OF ORANGETOWN

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.

TOWN OF ORANGETOWN
MAY 19 2023
COMMUNITY DEVELOPMENT

The foregoing resolution to approve the application for the requested front yard fence height variance is APPROVED; was presented and moved by Mr. Bonomolo, seconded by Ms. Castelli 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: May 17, 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 CLERK'S OFFICE
2023 MAY 19 A 11:43
TOWN OF ORANGETOWN

EXPANSION OF NON-CONFORMING BULK AND UNDERSIZED LOT BUILDING HEIGHT VARIANCES APPROVED

To: Michael Cassidy
12 Lang Terrace
Pearl River, New York 10965

ZBA #23-13
Date: May 17, 2023
Permit #BLDR-3036-23

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 23-13: Application of Michael Cassidy for variances from Zoning Code (Chapter 43) of the Town of Orangetown, R-15 District, Group M, Section 9.2 (Expansion of a non-conforming bulk) and Section 5.21 (c) & (e): (Undersized building lot building height: 20' permitted, 24' 6" proposed) for an addition to an existing single-family residence. The premises are located at 12 Lang Terrace, Pearl River, New York and are identified on the Orangetown Tax Map as Section 69.05, Block 3, Lot 59 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, May 17, 2023 at which time the Board made the determination hereinafter set forth.

Virginia Brodsky Damato and Michael Cassidy appeared and testified.

The following documents were presented:

1. Architectural Plan labeled "Cassidy Residence 2nd floor addition" dated 01/17/2023 signed and sealed by Harold J. Goldstein, AIA. (2 pages)

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

Virginia Brodsky Damato testified that the house is a Cape Style house, 1 ½ stories and they are proposing to make it a true two-story house' that as it exists it is 24' 6" in height and it will be 24' 6" in height when the construction is complete; that it is an undersized lot; that some of the Cape style houses in the area have already done similar additions; that the lot is oddly shaped and the house was built in 1956.

ROBERTO S. MURTO, M.A.C.L.
2023 MAY 19 11:43
TOWN OF ORANGETOWN

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 expansion of non-conforming bulk and undersized lot building height variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The house was built in 1956 and is on an odd shaped lot; the height variance is required because of the undersized lot width; and similar additions have been done in the neighborhood.
2. The requested expansion of non-conforming bulk and undersized lot building height variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The house was built in 1956 and is on an odd shaped lot; the height variance is required because of the undersized lot width; and similar additions have been done in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.
4. The requested expansion of non-conforming bulk and undersized lot 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 house was built in 1956 and is on an odd shaped lot; the height variance is required because of the undersized lot width; and similar additions have been done in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

TOWN CLERK'S OFFICE

MAY 19 4 11:03

TOWN OF ORANGETOWN

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested expansion of non-conforming bulk and undersized lot building height variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN OF ORANGETOWN
MAY 19 11:53
TOWN CLERK'S OFFICE

The foregoing resolution to approve the application for the requested expansion of non-conforming bulk and undersized lot building height variances are APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli 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: May 17, 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 OF ORANGETOWN
2023 MAY 19 A 11:43
TOWN CLERK'S OFFICE