

MINUTES  
ZONING BOARD OF APPEALS  
April 16, 2025

MEMBERS PRESENT: MICHAEL BOSCO, CHAIRMAN  
ROBERT BONOMOLO, JR.  
BILLY VALENTINE  
PATRICIA CASTELLI  
THOMAS QUINN  
ABSENT: ANTHONY DEROBERTIS, ALTERNATE  
ALSO, PRESENT: Denise Sullivan, Deputy Town Attorney  
Katlyn Bettmann, Administrative Aide  
Anne Marie Ambrose, Official Stenographer

This meeting was called to order at 7: 15 P.M. by Chairman Bosco.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted below:

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| <u>APPLICANTS</u> | <u>PUBLISHED ITEMS</u><br><u>DECISIONS</u> |
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| <u>CONTINUED ITEMS:</u><br>LaFAMIGLIA/ LANNI<br>RESTAURANT OUTDOOR DINING<br>645 Main Street<br>Sparkill, New York<br>77.08 / 5 / 48.1 & 48.2; CS zone | ZBA#23-21<br><br><br><br><br><br>CONTINUED |
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| AWAL<br>50 Woods Road<br>Palisades, New York<br>78.18-1-37; R-80 | ZBA#24-54<br><br>SECTION 5.226 FENCE HEIGHT &<br>SECTION 5.226 FENCE SETBACK<br>VARIANCES APPROVED WITH CONDITION |
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| <u>NEW ITEM:</u><br>SINANAN<br>143 Independence Avenue<br>Tappan, New York<br>74.18 / 2 / 1; R-15 zone | ZBA#25-11<br><br>POSTPONED TO MAY 7, 2025 |
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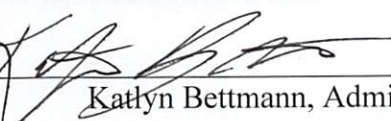
THE DECISIONS RELATED TO THE ABOVE HEARINGS are inserted herein and made part of these minutes.

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 9:00 P.M.

Dated: April 16, 2025

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Katlyn Bettmann, Administrative Aide

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

TOWN CLERK'S OFFICE  
2025 MAY - 2 P 12: 23  
TOWN OF ORANGETOWN

**DECISION**  
**SECTION 5.226 FENCE HEIGHT & SECTION 5.226 FENCE SETBACK VARIANCES**  
**APPROVED WITH CONDITION**

To: Roopa & Ashook Awal  
50 Woods Road  
Palisades, New York

ZBA #25-54  
Date: December 4, 2024 & April 16, 2025  
Permit # BLDR-5849-24

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#24-54: Application of Ashok and Roopa Awal, , for variances from Zoning Code (Chapter 43), R-80 District, Group A, Section 5.226 (fence height: 4-1/2' permitted in front yard, with 6' and 8' proposed), and Section 5.226 (fences over six-foot set-back from property lot line a distance equal to 2/3 its height, with the on the property line proposed), for a fence at an existing single-family dwelling. The premises are located at 50 Woods Road, Palisades, New York and identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 37 in the R-80 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, December 4, 2024 & April 16, 2025 at which time the Board made the determination hereinafter set forth.

**At the December 4, 2024 meeting:**

Roopa & Ashook Awal, homeowners, appeared and testified.

The following documents were presented:

1. Survey dated May 13, 2005, signed and sealed by Robert E. Sorace, P.L.S. (1 page)
2. Fence Site plan based on Survey dated May 13, 2005, signed and sealed by Robert E. Sorace, P.L.S. (1 page)
3. Computer generated pictures of the similar fences (5 pages).
4. Email dated November 5, 2025 from OBZPAE regarding Section 5.225 (3 pages).
5. A letter dated October 22, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
6. A letter dated December 2, 2024 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
7. A letter dated December 4, 2024 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer II.
8. Letter from Rick Cook, 34 Woods Road, Palisades, New York

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

**At the December 4, 2024 meeting:**

Roopa Awal, homeowner, testified that they would like to have a deer fence put in behind the house, as well as fencing along the sides, and in the front of the house that will be eight (8') feet high; that they have put a lot of money into their garden, but there have been a lot of deer in the area getting into the garden; that the six(6') foot fence around the property would not be high enough to stop the deer from coming into the yard; that the gate at the driveway in the front yard will be six (6') feet high and motorized; that the proposed aluminum fencing will only be the sections attached to the gate; that there is an wood fence along the North side which existed when they purchased the home; that Woods Road is the front of the house; that the fence can be set back further if it needs to be;

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that they purchased the home two and half years ago and were not aware of any easements on their property, as pointed out by the Board; that their best choice would be to push back the fence and keep the eight (8') foot height, but they had no intentions of touching the existing wood fence; that they are willing to place the fence six (6') feet back from the easement noted on their survey in order to protect themselves and be able to have the higher fence; that they will provide the distances from the property line to the fences; that they would like to have a continuance to the January 15<sup>th</sup> meeting.

Ashook Awal, homeowner, testified that most of the front fence is eight (8') feet high, that the only area which is six (6') high is the gate and the two pieces connected to the fence; that there are other fences in the neighborhood which are eight (8') feet high including their neighbors; that the deer jump over the six (6') foot high fence; that he would be willing to put the fence six (6') feet back from the easement if they can keep the eight (8') fence, and he will ask his fence installer to verify the measurements of the fence setbacks;

Public Comment:

Fred Little, 71 Woods Road, Palisades, New York, testified that he has researched his own deed; that he is the next to the last house on the road; that he has been a resident here since 1986; that his wife's family has lived here since 1941; that the built 71 Woods Road in 1990/1992; that the deeds show we had a deeded Right Of Way(R.O.W.) in perpetuity on our property for ingress and egress on Washington Spring Road; that he has examined their multiple Deeds and maps in the County office regarding this; that the first R.O.W. is documented on the 1947 Polhemus survey; that it shows a twenty-five (25') foot wide R.O.W. from Washington Spring Road all the way to the front gate, of what was then, Katherine Cornell's mansion; that at the corner where the Awal's lot is located, that map shows the boundary of the twenty-five (25') foot R.O.W. marked by iron pegs; that his visual inspection was unable to locate those iron pegs, but there has been some build up on the berm and he believes they do still exist; that also the Deeds reference an additional 1965 grant of R.O.W. Subdivision Hyde; that he has not managed to find those documents or map; that he believes that this was the time at which certain sections of the road expanded to a fifty (50') foot R.O.W. as is currently shown on Towns maps; that the town maps show at the corner a twenty-five (25') foot R.O.W.; that the road is only twelve (12') feet wide at its narrowest point and eighteen (18') feet wide at its widest; that he can't tell in the twenty-five (25') foot or fifty (50') foot R.O.W. that twelve (12') foot to eighteen (18') foot band of asphalt is actually located; that the boundary defining the mandated setback is unclear; that the Buchanan survey also acknowledge the twenty-five (25') foot easement on the second front of the property; that the proposed fence, which he is aware the gate will fully enclose the property, is shown on the plans as encroaching on the easement as well as on the smaller twenty-five (25') foot easement that is adjacent to Eastern side of Woods Road; that the proposal does include additional encroachments and on the Eastern side in particular if there is a fence on the easement on the pavement it will reduce the available space for vehicular traffic at the corner; that there are rocks on the two sides of the road; that there is also a transformer at the end of the road. This is private property which has to be accessed by a firetruck and an ambulance, and with a transformer in the way at the same time it will be a problem. He stated that he is not a Lawyer but will refer the Board to Chapter 8 Article 5 The Rules of Governing Adverse Possession. The request before you will substantially enclose the property; that he is concerned that the request for approval in front of the Board can be used to establish a future adverse possession claim under Section 5.22, and speaking as a diligent owner, he is obligated to register his formal objection; that it is the view of himself and well as Mr. Cook that any setbacks should be made from the edge of the R.O.W. not from the edge of the property line and no further encroachment on any existing Deeded R.O.W. to any property owners are appropriate to be granted by this Board; that it is an intrusion on their purchased or received property rights; that there is no house on Woods Road that has a fence directly adjacent to the road, it's not a law or a rule, it's a norm. He stated that allowing one property to fence up to edge of the property at extra height would be a most unfortunate precedent and violates the norms that already exist today, that where they're encroaching on the R.O.W. boundary should be the edge of the setback; that it's his easement in his Deed which he will supply to Denise Sullivan.



Chairman Bosco stated that he believes there is an easement alongside the property, and that the Applicants will need to obtain a hold harmless agreement to move forward; he would also like to know the distances that the fences need to be set from the property lines.

Denise Sullivan, Deputy Town Attorney, asked who the easement belongs to? That the subject easement is for a possible road widening for lots two and three and states a possible easement and nothing else is recorded after 1977, unless the Title search shows something else. Denise also suggested Robert Sorace, PLS, may be of help, as he created the map.

Chairman Bosco asked Fred Little how this fence proposal will affect him if they were to put the fence in, what will that do to him?

Fred Little responded that Chairman Bosco was asking him whether or not he should seed his deeded right of a R.O.W. for another individual; that what's in it for him is the protection of his legal rights as a property owner (A), (B) is insuring that the corner does not become more unsafe than it already is because fences cut sight lines.

Chairman Bosco stated that there is already an existing fence, and that they want to add to meet up with what exists.

Fred Little responded that there are no fences at this corner.

Denise Sullivan stated that this is well within their property boundaries.

Chairman Bosco stated that the other corner is much further back from the edge, and that there are eight (8') foot high fences installed in this area setback six (6') feet from the property lines.

The Board was polled in consideration of approving the fence at the shown heights, with the understanding that it would be placed six (6') feet back from the easement.

However due to there being more involved than just the fence setbacks, it was decided that the Awal's would request a continuance to provide their fence setbacks and look for a copy of their property title.

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.

**At the April 16, 2025 meeting:**

ZBA#24-54: Application of Ashok and Roopa Awal, Owners, for variances from Zoning Code (Chapter 43), R-80 District, Group A, Section 5.226 (fence height: 4-1/2' permitted in front yard, with 6' and 8' proposed), and Section 5.226 (fences over six-foot set-back from property lot line a distance equal to 2/3 its height, with the on the property line proposed), for a fence at an existing single-family dwelling. The premises are located at 50 Woods Road, Palisades, New York and identified on the Orangetown Tax Map as Section 78.18, Block 1, Lot 37 in the R-80 zoning district.

Roopa & Ashook Awal, homeowners, and Robert Lewis, Attorney, appeared and testified.

The following documents were presented:

1. A letter dated March 31, 2025 from Roopa & Ashok Awal.
2. A letter dated February 13, 2025, from Jade Abstract signed by Lucy Dosch, with two maps included for back up (3 pages).
3. Email from Fred Little dated April 16, 2025 (2 pages).
4. Letter dated March 5, 2025, from Robert Lewis, Attorney (1 page).



5. Letter dated March 7, 2025 from Robert Lewis, Attorney, with Jade Abstract letter and 2 maps backups (5 pages).
6. Email from Mrs. Gerard dated April 7, 2025 (1 page).
7. Letter dated December 4, 2024 from Rick Cook, 34 Woods Road, Palisades, New York.

Chairman Bosco, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo and carried unanimously.

**At the April 16, 2025 meeting:**

Robert Lewis, Attorney, testified that this “future road widening easement” is an unrecorded easement; that other properties deeds have easements recorded for a property that isn’t there and an easement that is not recorded; that this easement issue is a non-starter; that the homeowners have no notice of this easement not is it in their deed; that he is unsure of where the thirteen other children and speeding vehicles are coming from, however if there are unsafe vehicles on the roadway that would be a police matter;

Ashook Awal, homeowner, testified that the fence from the road is at least ten (10’) feet.

Chairman Bosco stated that as one member of the Board his concern was the easement, and that after speaking with the Town of Orangetown Highway superintendent, he has no issue with where they were putting the fence initially. He also stated while visiting the neighborhood it became apparent that all the other properties were the same way - with their gates at the front of their driveways, which is where the Applicants would like theirs to be. He noticed that many other properties abut and encroach on the easement (the non-existent easement) as well, along that property line. Mr. Bosco stated that he previously wanted the information, and has now done a thorough evaluation. He feels that there is no way that road widening easement will ever become a road, that everyone’s property will be ripped up fifty (50’) feet in from where it exists today. And that the concerns that were brought up in regards to the turn on the corner, there is one car coming out, in his opinion, so they would not be valid concerns. Where the Applicants were initially seeking to put the fence and the height of the fence he has no issue with. He also stated that the properties across the road have metal fence and deer fencing and the gate. He also stated that the property right after this one comes out the same way.

Billy Valentine stated that the Applicants have done their due diligence to try and uncover the easement owners, and he does not feel that it is fair to hold that against them, he is agreeance with Chairman Bosco.

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

**Public Comment:**

Fred Little, 71 Woods Road, Palisades, New York, testified that it was not clear to him which one of the (3) fence plans is the final plan; that one the one thing I doesn’t see is the dimension between the fence and the road and it is difficult to tell with a fat marker line like that on a 1:50 scale map or if it’s been reduced to someplace else, exactly where that line is;



that his second point is while you may see one vehicle coming out they see a large number of heavy vehicles coming in and out of that corner every day; that it is quite frequent for two Ford F-250's hauling something to meet things going the other way; that adding any type of police emergency, fire emergency, or health emergency can be a problem; that in regards to the easement the term easement is unfortunate because what they have is a property right to the other owners on the road which was built into the original deed; that what those deeds said was that any subsequent right that were granted would also inure to those owners; that he understood that the Town of Orangetown was not going to take over responsibility for the road or widen it, however he feels that the right of the property owners beyond that point to walk unimpeded and travel unimpeded on the R.O.W. which was granted in 1968 is a property right on a private road that he feel this Board does not have the authority to take; that he feels this could constitute a public taking on behalf of one person against other owners, he's not sure that is where the Board wants to go; and that he feels the Board is applying public road law to a private road law.

Chairman Bosco responded to Fred Little and does not feel that this is what the Board is doing, as an easement states that if something were to be done then you would have to give up the R.O.W. Also, this easement stated that is was for a potential roadway, and it is not documented anywhere legally.

Andrew Coon, 139 Washington Spring Road, Palisades, New York, testified that he used to live at 50 Woods Road, he was their tenant; that he can speak to the traffic and people flying there on the corner; that it's before the road is private and it keeps going to the right at the corner there's a number of parcel vehicles that all drive very fast.

Tess Wallace, 139 Washington Spring Road, Palisades, New York, testified that she is a former tenant of 50 Woods Road; that there are about fifteen children, in the area where she lives, under the age of 5; that everyone in the neighborhood walks daily or rides their bikes or scooter; that six kids go to school at Lamont, and others walk to school at Red Owl on Oak Tree Road; that they walk and they hike at the state park; that the private residence there is actually not private you can walk through; that her concern is that they will no longer be able to do that safely; that the cars kind of pull over to make room coming through the truck traffic; that they want to have the space to walk on the other side of the road; that she feels the Applicants have the space to get back further based on where the stakes are at the road; that she would still like to have the space to step in out of the way off the road.

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.

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

Chairman Bosco made a motion to close the Public Hearing which motion was seconded by Mr. Valentine and carried unanimously.

1. The requested § 5.226 fence height & § 5.226 fence setback variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Applicants have spent a lot of money on their landscaping, and the deer are eating the landscaping. The higher fence is to help keep deer out of the property. Other properties in the neighborhood have very similar fences and gates.
2. The requested § 5.226 fence height & § 5.226 fence setback variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Applicants have spent a lot of money on their landscaping, and the deer are eating the landscaping. The higher fence is to help keep deer out of the property. Other properties in the neighborhood have very similar fences and gates.



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 § 5.226 fence height & § 5.226 fence setback 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 Applicants have spent a lot of money on their landscaping, and the deer are eating the landscaping. The higher fence is to help keep deer out of the property. Other properties in the neighborhood have very similar fences and gates.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvement, 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 § 5.226 fence height & § 5.226 fence setback variances are APPROVED; and FURTHER RESOLVED, with the Specific Conditions (1) Applicant will provide the Town of Orangetown with a Hold Harmless Agreement, subject to review and approval of the Town Attorney's Office; (2) Any NEW fence will installed eight (8') feet from the property line, existing fence to remain; 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.

TOWN OF ORANGE TOWN  
2025 MAY - 2 P 12:23



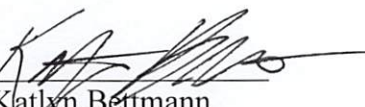
(v) Any foregoing variance or Special Permit will lapse if any contemplated construction of the project or any use for which the variance or Special Permit is granted is not substantially implemented within one year of the date of filing of this decision or that of any other board of the Town of Orangetown 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 § 5.226 fence height & § 5.226 fence setback variances are APPROVED; and FURTHER RESOLVED, with the Specific Conditions (1) Applicant will provide the Town of Orangetown with a Hold Harmless Agreement, subject to review and approval of the Town Attorney's Office; (2) Any NEW fence will installed eight (8') feet from the property line, existing fence to remain; was presented and moved by Ms. Castelli, seconded by Mr. Quinn and carried as follows: Chairman Bosco, aye; Mr. Bonomolo, aye; Ms. Castelli, aye; Mr. Valentine, aye. Mr. Quinn, aye. Mr. DeRobertis was absent.

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

DATED: April 16, 2025

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Katlyn Bettmann  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2025 MAY - 2 P 12: 23  
TOWN CLERK'S OFFICE