

MINUTES  
ZONING BOARD OF APPEALS  
April 21, 2021

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

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:

SULLIVAN  
70 Eimer Street  
Tappan, New York  
77.08 / 1 / 29; RG zone

FRONT YARD, REAR YARD,  
AND ACCESSORY STRUCTURE  
DISTANCE VARIANCES APPROVED  
SHEDS THAT ARE 100 SQ. FT. OR LESS  
DO NOT ADD TO FLOOR AREA RATIO

ZBA#21-33

KENNEDY  
815 Route 9W  
Grandview, New York  
75.05 / 1 / 7.1; R-22 zone

FRONT YARD, BUILDING  
HEIGHT, & SIDE YARD VARIANCES  
APPROVED

ZBA#21-34

SURACE  
110 Violet Drive  
Pearl River, New York  
69.05 / 4 / 1; R-15 zone

SIDE YARD AND TOTAL SIDE  
YARD VARIANCES APPROVED

ZBA#21-35

SAMUEL  
30 Carlton Road  
Orangeburg, New York  
74.06 / 2 / 2; RG zone

FRONT YARD VARIANCE  
APPROVED

ZBA#21-36

TOWN OF ORANGETOWN  
2021 APR 26 A 11: 55  
TOWN CLERK'S OFFICE

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: Rockland Country Club Site Plan, 597 Route 340, Sparkill, 78.09 / 1 / 24; R-80 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings

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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:15 P.M.

Dated: April 21, 2021

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  
2021 APR 26 A 11:54  
TOWN CLERK'S OFFICE

MINUTES  
ZONING BOARD OF APPEALS  
April 21, 2021

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

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:

SULLIVAN 70 Eimer Street Tappan, New York 77.08 / 1 / 29; RG zone	FRONT YARD, REAR YARD, AND ACCESSORY STRUCTURE DISTANCE VARIANCES APPROVED SHEDS THAT ARE 100 SQ. FT. OR LESS DO NOT ADD TO FLOOR AREA RATIO	ZBA#21-33
KENNEDY 815 Route 9W Grandview, New York 75.05/ 1 / 7.1; R-22 zone	FRONT YARD, BUILDING HEIGHT, & SIDE YARD VARIANCES APPROVED	ZBA#21-34
SURACE 110 Violet Drive Pearl River, New York 69.05 / 4 / 1; R-15 zone	SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#21-35
SAMUEL 30 Carlton Road Orangeburg, New York 74.06 / 2 / 2; RG zone	FRONT YARD VARIANCE APPROVED	ZBA#21-36

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TOWN CLERK'S OFFICE



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: Rockland Country Club Site Plan, 597 Route 340, Sparkill, 78.09 / 1 / 24; R-80 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings


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

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

There being no further business to come before the Board, on motion duly made, seconded and carried, the meeting was adjourned at 8:15 P.M.

Dated: April 21, 2021

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  
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**FRONT YARD, REAR YARD AND SECTION 5.153 ACCESSORY STRUCTURE  
DISTANCE FROM PRIMARY STRUCTURE VARIANCES APPROVED  
BOARD DETERMINED FLOOR AREA RATIO IS NOT INCREASED BY A SHED  
THAT IS 100 SQ. FT. OR LESS**

To: Ken Sullivan  
70 Eimer Street  
Tappan, New York 10983

ZBA #21-33  
Date: April 21, 2021  
Permit #51153

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-33: Application of Ken Sullivan for variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 4 (Floor Area Ratio: .30 permitted, .316 existing {granted ZBA#11-73 dated 9/7/2011}, .329 proposed); 8 (Front Yard: 25' required, 22' proposed; { 20.6' to Eimer granted in ZBA #11-73} 14.54' to Austin) and 11 (Rear Yard 25' required, 12' proposed) and from Section 5.153( Accessory Structure shall be 15' from principal building: 7.75' existing to existing shed) for an existing deck and shed at an existing single-family residence. The property is located at 70 Eimer Street, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.08, Block 1, Lot 29 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 21, 2021 at which time the Board made the determination hereinafter set forth.

Ken Sullivan appeared and testified.

The following documents were presented:

1. Site plan labeled "Sullivan Residence" last revision date of March 11, 2021 signed and sealed by Bart Rodi, PE.
2. ZBA Decision #11-73 dated September 7, 2011.
3. ZBA Decision # 85-82 dated December 4, 1982.
4. Three letters from neighbors in support of the application.

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; Mr. Quinn, aye; and Mr. Valentine, aye.

Ken Sullivan testified that he is selling the house and the title search came back stating that he needs variances for a shed that is too close to the primary structure and that the deck is too close to the rear yard; and the building inspector determined that he needed a floor area ratio because of the shed; that he was granted a front yard variance of 20.6' for the covered front porch in ZBA#11-73 dated September 7, 2011 and now he needs a 22' front yard variance according to the denial; that there is a 14.54' front yard on the Austin Street side of the property; and that he did not know that a 100 sq. ft. shed could add to the floor area ratio.

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The Board discussed the requested change in floor area ratio and stated that the shed was under 100 sq. ft. and according to code would not be added to floor area ratio.

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 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, rear yard and Section 5.153 accessory distance from primary structure variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board determined that a shed that is 100 sq. ft. or less does not add to the floor area ratio on a property. The existing house was built far back on the property and because of its location, the shed and primary structure are too close and the deck encroaches into the rear yard set-back. The Board acknowledged the two front yard setbacks 20.6' on Eimer Street and 14.54' for Austin Street.
2. The requested front yard, rear yard and Section 5.153 accessory distance from primary structure variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board determined that a shed that is 100 sq. ft. or less does not add to the floor area ratio on a property. The existing house was built far back on the property and because of its location, the shed and primary structure are too close and the deck encroaches into the rear yard set-back. The Board acknowledged the two front yard setbacks 20.6' on Eimer Street and 14.54' for Austin Street.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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4. The requested front yard, rear yard and Section 5.153 accessory distance from primary structure variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. . The Board determined that a shed that is 100 sq. ft. or less does not add to the floor area ratio on a property. The existing house was built far back on the property and because of its location, the shed and primary structure are too close and the deck encroaches into the rear yard set-back. The Board acknowledged the two front yard setbacks 20.6' on Eimer Street and 14.54' for Austin Street.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard, rear yard and Section 5.153 accessory distance from primary structure variances are APPROVED; and FURTHER RESOLVED that the shed that is under 100 sq. ft. does not add to the floor area ratio 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.

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(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 front yard, rear yard and Section 5.153 accessory distance from primary structure variances are APPROVED and the existing shed is under 100 sq. ft. and therefore does not add to the floor area ratio; 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: April 21, 2021

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN CLERK'S OFFICE  
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**FRONT YARD, SIDE YARD, AND BUILDING HEIGHT VARIANCES APPROVED;  
UNDERSIZED LOT ACKNOWLEDGED**

To: Meg Fowler (Joe Kennedy)  
500 North Broadway  
Upper Nyack, New York 10960

ZBA #21-34  
Date: April 21, 2021  
Permit #50759

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-34: Application of Joe Kennedy for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-22 District, Group I, Section 3.12, Columns 8 (Front Yard: 40' required, 17.4' proposed), 12 (Building Height: 20' permitted, 20.9' proposed) and from Section 5.21 (b)(e) (Undersized lot side yard: 24' required, 8.2' proposed) for additions and alterations to an existing structure at an existing single-family residence. The property is located at 815 Route 9W, Nyack, New York and is identified on the Orangetown Tax Map as Section 75.05, Block 1, Lot 7.1 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 21, 2021 at which time the Board made the determination hereinafter set forth.

Margaret Fowler, Architect, appeared and testified.

The following documents were presented:

1. Plans labeled "Kennedy Residence 815 Route 9W" dated March 25, 2020 with the latest revision date of 03/01/2021 signed and sealed by Margaret L. Fowler, Architect. (2 pages).
2. Survey dated March 4, 2020 signed and sealed by Paul Gdanski, P.E., PLLC.
3. A notice from Mary McCollough, Transportation Analyst, New York State Department of Transportation stating that the project is out of the jurisdiction of the agency.
4. Five color computer generated pictures of the existing house and garage.

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; Mr. Quinn, aye and Mr. Valentine, aye.

Margaret Fowler, Architect, testified that there is a strange space between the existing detached garage and the house; that it about a five foot space with concrete steps between the garage and house; that the house is on the east side of the Route 9W with a steeply sloped driveway and in order to get into the garage a 90 degree turn is necessary and almost impossible to achieve; that by attaching the garage to the house it will become a usable space; that they are staying in the

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same line as the existing structure and moving forward which increases the front yard; that all of this is far below Route 9W and makes the structure much more usable for the applicant; that the ridge of the roof will be the same height as the exiting house; that the variances become necessary because the garage is becoming part of the primary structure; that the applicant owns the lot the south which is all woods; that they have lived in the house for seven or eight years and have children in the school system; that they debated about moving or building new on the lot to the south but decided that this option works best for their family; that there is a loft space above the existing garage that is only accessible presently through a hatch below; that when the addition is complete this room with beautiful river views will actually become useful livable space for the family; and that the proposal will not negatively impact the neighborhood.

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, 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 Board acknowledged the undersized lot and noted that the garage existed and is being connected to the existing house which will allow for better use by the applicants of the existing structure.
2. The requested front yard, 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 Board acknowledged the undersized lot and noted that the garage existed and is being connected to the existing house which will allow for better use by the applicants of the existing structure.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining variances.

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4. The requested front yard, side yard and building height variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. The Board acknowledged the undersized lot and noted that the garage existed and is being connected to the existing house which will allow for better use by the applicants of the existing structure.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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

General Conditions:

- (i) The approval of any variance or Special Permit is granted by the Board in accordance with and subject to those facts shown on the plans submitted and, if applicable, as amended at or prior to this hearing, as hereinabove recited or set forth.
- (ii) Any approval of a variance or Special Permit by the Board is limited to the specific variance or Special Permit requested but only to the extent such approval is granted herein and subject to those conditions, if any, upon which such approval was conditioned which are hereinbefore set forth.

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

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

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(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 front yard, side yard and building height variances are APPROVED and the undersized lot is acknowledged; 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: April 21, 2021

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

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**SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED**

To: Rocco Surace  
110 Violet Drive  
Pearl River, New York 10965

ZBA #21-35  
Date: April 21, 2021  
Permit #51100

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-35: Application of Rocco Surace for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12, Column 9 (Side Yard: 20' required, 13.9' for pool and 19' to pool deck and 18.8 to main deck) and 10 (Total Side Yard: 50' required, 42.4' proposed) for an existing above-ground pool and deck at an existing single-family house. The premises are located at 110 Violet Drive, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.05 Block 4, Lot 1 in the R-15 zoning district

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 21, 2021 at which time the Board made the determination hereinafter set forth.

Rocco Surace and Karl Ackermann, Architect, appeared and testified.

The following documents were presented:

1. Survey dated March 9, 2021 by James G. Scheuermann, L.S.

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 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; Mr. Quinn, aye; and Mr. Valentine, aye.

Karl Ackermann, Architect, testified that Mr. Surace purchased his house 17 years ago with the pool, pool deck and house deck existing as it is now; that he was given clear title at the time of purchase; that he is in the process of refinancing the house and the deck, pool deck and pool came back as violations; that this is not a self-created condition; that they are seeking relief from the violations that came back as result of the property search being done for the refinancing.

Rocco Surace testified that he paid to get a property survey done to ensure that the measurements to deck, pool and pool deck were correct.

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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. Quinn and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all the documents submitted, the Board found and concluded that the benefits to the applicant if the variance(s) are granted outweigh the detriment (if any) to the health, safety and welfare of the neighborhood or community by such grant, for the following reasons:

1. The requested side yard and total side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The requested variances are minor and have existed for at least 17 years without incident.
2. The requested side yard and total side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The requested variances are minor and have existed for at least 17 years without incident.
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 side yard and total side yard variances although somewhat substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar pools with decks have been constructed in the neighborhood. The requested variances are minor and have existed for at least 17 years without incident.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested side yard and total side yard variances are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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


TOWN CLERK'S OFFICE  
2021 APR 26 A 11:50  
TOWN OF ORANGETOWN

The foregoing resolution to approve the application for the requested side yard and total side yard variances are APPROVED; was presented and moved by Mr. Quinn, 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: April 21, 2021

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

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

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

TOWN OF ORANGETOWN  
2021 APR 26 A 11:50  
TOWN CLERK'S OFFICE



**FRONT YARD VARIANCE APPROVED**

To: Scott O'Neill (Samuel)  
164 High Avenue  
Nyack, New York 10960

ZBA #21-36  
Date: April 21, 2021  
Permit #51185

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-36: Application of Johnson Samuel for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Column 8 (Front Yard: 25' required, 23.09' to roof and 24.09 to addition) for a second story addition to an existing single-family residence. The property is located at 30 Carlton Road, New York and is identified on the Orangetown Tax Map as Section 74.06, Block 2, Lot 2 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 21, 2021 at which time the Board made the determination hereinafter set forth.

Johnson Samuel and Matthew Morrison, Hometown Professional Builders, appeared and testified.

The following documents were presented:

- 1. Plans labeled "Samuel Residence" dated October 27, 2020 with the latest revision date of 3/1/2021 signed and sealed by Eric Daren Jacobsen, RA. (7 pages).

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; and Ms. Castelli, aye; Mr. Quinn, aye; and Mr. Valentine, aye.

Mathew Morrison testified that Scott O'Neill was going to do the presentation but is home quarantining; that they need two front yard variances, one for the proposed front porch roof which will add aesthetic value to the house and neighborhood; and one for the proposed addition on the east side which will add a master bedroom suite and have a one foot cantilever over the existing footprint; that the footprint of the structure is not changing; that the cantilever affords more livable space and adds character to the façade of he structure; and the proposals are not a detriment to the character of the neighborhood.

Johnson Samuel testified that he purchased the house two years ago; that he grew up in the house across the street; and that his parents still live across the street.

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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 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 variances (23.09' & 24.09') will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar additions have been constructed in the neighborhood.
2. The requested front yard variances (23.09' & 24.09') will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Similar additions have been constructed in the neighborhood.
3. The benefits sought by the applicant cannot be achieved by other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested front yard variances (23.09' & 24.09') are 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. Similar additions have been constructed in the neighborhood.
5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

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DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested front yard variances (23.09' & 24.09') are APPROVED; and FURTHER RESOLVED, that such decision and the vote thereon shall become effective and be deemed rendered on the date of adoption by the Board of the minutes of which they are a part.

General Conditions:

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

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

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

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

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

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The foregoing resolution to approve the application for the requested front yard variances (23.09' & 24.09') are APPROVED; was presented and moved by Mr. Bonomolo, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; and Ms. Castelli, 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: April 21, 2021

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By   
Deborah Arbolino  
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