

MINUTES
ZONING BOARD OF APPEALS
June 17, 2020

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

ABSENT: NONE

ALSO PRESENT: Deborah Arbolino, Administrative Aide
Denise Sullivan, Deputy Town Attorney

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:

MANDELL 26 Shadyside Avenue Nyack, New York 71.05 / 1 / 8; R-22 zone	FRONT YARD AND SIDE YARD VARIANCES APPROVED WITH SPECIFIC CONDITIONS	ZBA#20-35
BETHANY MAR THOMA CHURCH 90 Old Orangeburg Road Orangeburg, NY 74.09 / 1 / 64; R-15 zone	FLOOR AREA RATIO, LOT AREA, FRONT YARD, SIDE YARD, TOTAL SIDE YARD, AND BUILDING HEIGHT VARIANCES (ZBA#18-79) SECTION 3.11, COLUMN 5, PARAGRAPH 12 SIGN VARIANCES (ZBA#19-41) RE- APPROVED	ZBA#20-36
CABRERA 3 South Serven Street Pearl River, NY 68.19 / 4 / 4; RG zone	FRONT YARD FENCE HEIGHT VARIANCE APPROVED	ZBA#20-37
TAMPAKIS 22 Bluefields Lane Blauvelt, NY 70.13 / 2 / 45; R-15 zone	FLOOR AREA RATIO VARIANCE APPROVED	ZBA#20-38

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DONAHUE
46 Bauer Street
Tappan, NY
77.08 / 2 / 20; RG zone

FLOOR AREA RATIO, SIDE YARD,
REAR YARD, BUILDING HEIGHT
VARIANCES APPROVED: UNDERSIZE LOT
ACKNOWLEDGED

ZBA#20-39

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 8:30 P.M.

Dated: June 17, 2020

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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TOWN CLERK'S OFFICE

DECISION

FRONT YARD AND SIDE YARD VARIANCES APPROVED

To: John Atzl (Mandell)
234 North Main Street
New City, NY 10956

ZBA #20-35
Date: June 17, 2020
Permit #46394

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-35: Application of Eduard Mandell for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, R-22 District, Group I, Section 3.12, Columns 8 (Front Yard: 40' required, 31.1' existing to main dwelling, 29' proposed to front deck and 35' to proposed new garage) and 9 (Side Yard: 25' required, 23.8' existing, 22' proposed to covered deck) for an addition to an existing single-family residence. The premises are located at 26 Shadyside Avenue, Upper Grandview, New York and is identified on the Orangetown Tax Map as Section 71.05, Block 1, Lot 8 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Ryan Nasher, P.E., Atzl, Nasher & Zigler, P.C., and Eduard Mandell appeared and testified.

The following documents were presented:

1. Plans labeled "Mandell Residence" dated 6/16/17 with the latest revision date of 2/10/20 signed and sealed by John Atzl, L.S. & Ryan A. Nasher, P.E. (4 pages).
2. Architectural plans dated July 2018 with the latest revision dated of July 2019 signed and sealed by Kathleen Rifkin, Architect, (A-7 & A-6).
3. Isometric drawings (9 pages).
4. A memorandum dated February 28, 2020 from Jane Slavin, Architect, Director, O.B.Z.P.A.E..
5. A letter dated April 2, 2020 from Rockland County Sewer District No. 1 signed by Joseph LaFiandra, Engineer II.
6. A letter dated March 20, 2020 from the Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner.
7. A memorandum dated June 17, 2020 from John Atzl explaining a mistake on the plan regarding the height.
8. An e-mail dated June 17, 2020 4:01 P.M. from Suzanne Silverstein with concerns about drainage.
9. An e-mail dated June 17, 2020 4:50 P.M. from Daniel Orlando with concerns about drainage with two pictures attached.

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

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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 board conducted SEQRA reviews and on June 14, 2017 (as set forth in PB# 17-28), rendered an environmental determination that no significant adverse environmental impacts would result from the proposed land use actions (i.e. a "Negative Declarations" or "Neg. Dec"), the ZBA is bound by the Planning Board's Negative Declaration, and the BA cannot require further SEQRA review pursuant to SEQRA Regulations §617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Ryan Nasher,P.E., testified that he is the engineer for the site; that the applicant needs variances for the decks in the front and side of the property; that they are proposing to build a detached two car garage, walls decks and a gazebo; that he property is in a R-22 zoning district and an critical environmental area; that the variances were previously approved but the applicant was not ready to build yet and they lapsed; that the revised plan shows a small deck at the rear of the house with a patio; that there is typo on the plans regarding the height of the building and that this would be corrected upon final submission to the Building Department; that they have received preliminary approval from the Planning board and were sent to this board for the variances and then they must appear before ACABOR and back to the Planning Board; that the drainage improvement plan has been approved by the DEME; that from west to east it is a steep slope and there are walls in the rear of the house; that there is a flatter area of the yard where the play recreational area is and they are installing an infiltration system away from the existing wall with a splash back by the building and they could look into minimizing the impact to the east; that the south roof drain goes underground and it could be tied into the 12" pipe to the 2' ditch and then go under-ground; that the deck in the front of the house is new and the deck in the rear of the house is being replaced and a patio added; that the drainage easement cannot be touched and no improvements can be made in it; that the roof drains go into a catch basin and then a level spreader to slow down and spread out; that there will be zero net increase ; that he has no objection to a chamber storage detail in place of the drywell; that DEME has to agree; that the roof drain will capture the downspout west to east and pipe into the proposed catch basin around the perimeter of the foot drain.

Public Comment:

Suzzane Silverstein, 24 Shadyside, testified that she is concerned about the pitch of the roof on the proposed garage and that it will drain onto her property; that she already gets water from Townsend Avenue and the Town finally put in a catch basin; and she does not want more water on her property; that she spent money on landscaping to help with the water.

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.

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 and side yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the lot is in a critical environmental area and that similar additions have been constructed in the neighborhood.
2. The applicant has agreed to tie a 12" pipe to the 2' wide ditch and to add an additional drywell by the garage all subject to approval by the Town DEME. The applicant also stated that they will correct the error regarding building height of the dwelling and the garage on the plans.
3. The requested front yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the lot is in a critical environmental area and that similar additions have been constructed in the neighborhood.
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 front yard and 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. The Board acknowledged the critical environmental area and noted that similar additions have been constructed in the neighborhood.
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 front yard and side yard variances are APPROVED; with the Specific Condition that the applicant tie the 2' drainage ditch into the 12" pipe and direct it into the underground drainage system being installed and improve the drainage by the proposed garage subject to Town DEME approval; 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 and side yard variances are APPROVED with the Specific Condition that the applicant tie the 2' drainage ditch into the 12" pipe and direct it into the underground drainage system being installed and improve the drainage by the proposed garage subject to Town DEME approval;; was presented and moved by Ms. Castelli, seconded by Mr. Bonomolo and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bosco, aye; Mr. Bonomolo, 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: June 17, 2020

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-M.M.

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

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DECISION

EXTENSION OF TIME TO IMPLEMENT VARIANCES FROM ZBA#18-79 & ZBA #19-41 GRANTED FOR

To: John Atzl (Bethany Mar Thoma Church)
234 North Main Street
New City, New York 10956

ZBA #20-36
Date: June 17, 2020
Permit #47839 & 48532

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 20-36: Application of Bethany Mar Thoma Church for an extension of time to implement variances that were granted in ZBA#18-79: Chapter 43 of the Town of Orangetown Code, Section 3.12, R-80 District, Group B, Columns 4 (Floor Area Ratio: 105 permitted, 22% proposed), 5 (Lot Area: none required, 1.036 acres provided), 8 (Front Yard: 50' required, 12' proposed) 9 (Side Yard: 30' required, 4' proposed for church, 3.8' for pastors residence) , 10 (Total Side Yard: 100' required, 7.8' proposed) and 12 (Building Height: 12' permitted, 23' proposed) and from variances granted in ZBA 19-41: from R-80 District, Section 3.11, Column 5 Paragraph 12 (one sign not over 20 sq. ft. must be 25' from any lot line : 32 sq. ft. sign proposed, 10' from the front yard and 5' from the side yard and 2 sq. ft. of non-illuminated directional sign permitted: 6.25 sq. ft. per sign proposed, 12.4 sq. ft. proposed) for signs and an addition to an existing church. The property is located at 90 Old Orangeburg Road, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.09, Block 1, Lot 64 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Ryan Nasher, P.E. and Frank Phillips, Attorney, appeared and testified.

The following documents were presented:

1. Plans labeled "Bethany Mar Thoma Church Site Development Plan dated June 16, 2018 with the latest revision date of January 14, 2020 signed and sealed by John R. Atzl, L.S., and Ryan Nasher, P.E..
2. A cover letter dated March 9, 2020 from Atzl, Nasher & Zigler, P.C..

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination that since the Planning board noticed its' intent to declare itself Lead Agency and distributed that notice of intention to all Involved Agencies, including the ZBA who consented or did not object to the Planning Board acting as Lead Agency for these applications, pursuant to coordinated review under the State Environmental Quality Review Act Regulations § 617.6 (b)(3); and since the Planning board conducted SEQRA reviews and on September 12, 2018 (as set forth in PB# 18-31), rendered an environmental determination

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that no significant adverse environmental impacts would result from the proposed land use actions (i.e. a "Negative Declaration" or "Neg. Dec"), the ZBA is bound by the Planning Board's Negative Declaration, and the BA cannot require further SEQRA review pursuant to SEQRA Regulations §617.6 (b) (3). The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Frank Phillips, Attorney, testified that the church is trying to renovate and expand and the pastor's residence is to remain in its present location; that they received the approvals from the Boards for variances and a preliminary approval over a year ago but part of the approval was with the condition that a maintenance and easement agreement with the abutting property, Joseph's Home, needed to be filed with the Rockland County Clerk and was recently filed, and it took all this time to work that out; and then the Corona Virus hit, and now the variances have expired; that they went before the Board this past Monday and got approval based on getting the extension of time for the variances from this Board and that they would like to start to construction as soon as possible.

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 extension of time to implement the variances that were granted in ZBA# 18-79 and ZBA #19-41 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.
2. No significant change in circumstances has occurred since the prior approved variance was granted that would warrant Board reconsideration of its approval.
3. Applicants stated that they expect construction to begin in the near future.

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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 extension of time to implement variances that were granted in ZBA#18-79 (permit#47839) & ZBA# 19-41(permit # 48532) 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.

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The foregoing resolution to approve the application for the extension of time to implement variances that were granted in ZBA# 18-79 (permit #47839) & ZBA# 19-41(permit# 48532) is APPROVED; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: June 17, 2020

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

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TOWN CLERK'S OFFICE

DECISION

SECTION 5.226: 6' FENCE IN FRONT YARD VARIANCE APPROVED

To: Fernando Cabrera
3 South Serven Street
Pearl River, New York 10965

ZBA #20-37
Date: June 17, 2020
Permit #49913

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-37: Application of Fernando Cabrera for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Chapter 43, RG District, Section 5.226: (Front Yard Fence Height: 4 ½' permitted, 6' existing) at an existing single-family residence. The premises are located at 3 South Serven Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 68.19, Block 4, Lot 4 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Fernando Cabrera appeared and testified.

The following documents were presented:

1. Survey with the fence drawn on it.

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. Bonomolo, aye; Mr. Sullivan, aye; Mr. Quinn, aye; and Ms. Castelli, aye.

Fernando Cabrera testified that he purchased this house three years ago; that when he purchased it the fence was there and he has not changed it; that he found out it was illegal when he had the house up for sale; that it did not come up when he purchased the property on his title search; that the Building Department if doing on-site inspections now and that is how it came up; and that he has two front yards.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested Section 5.226 six-foot front yard fence variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The Board acknowledged the corner lot and that the applicant has two front yards.
2. The requested Section 5.226 six-foot front yard fence variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board acknowledged the corner lot and that the applicant has two front yards.
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 Section 5.226 six-foot front yard fence height variance although somewhat substantial, 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 corner lot and that the applicant has two front yards.
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 fence height variance (Section 5.226) 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.

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The foregoing resolution to approve the application for the requested front yard fence height variance (Section 5.226) is APPROVED; was presented and moved by Mr. Bosco, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: June 17, 2020

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
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TOWN CLERK'S OFFICE

DECISION

FLOOR AREA RATIO VARIANCE APPROVED

To: John and Pauline Tampakis
22 Bluefields Lane
Blauvelt, New York 10913

ZBA #20-38
Date: June 17, 2020
Permit #49865

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-38: Application of John and Pauline Tampakis for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Group M, Section 3.12 Column 4 (Floor Area Ratio: .20 permitted, .263 proposed) for a covered porch at an existing single-family residence. The premises are located at 22 Bluefields Lane, Blauvelt, New York and is identified on the Orangetown Tax Map as Section 70.13, Block 2, Lot 45 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Pauline Tampakis appeared and testified.

The following documents were presented:

1. Plans labeled "Tampakis Residence Covered Porch Addition" dated February 12, 2020 signed and sealed by Harold J. Goldstein, Architect. (2 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 Mr. Bosco and carried as follows: Mr. Bosco, aye; Mr. Sullivan, aye; Mr. Quinn, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

Pauline Tampakis testified that she has an existing deck that needs to be repaired and she would like to add a roof so that she would have protection from the sun; that she is retired now and would like to spend more time outside but protected from the sun because she has had cancerous lesions; and that there is an 8' x 10' shed in the rear of the yard in compliance with the setbacks for the zoning district of the property and she will come into the office to draw it on the survey.

Public Comment:

No public comment.

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

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

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

FINDINGS OF FACT AND CONCLUSIONS:

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

1. The requested floor area ratio variance 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 floor area ratio variance 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 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. 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 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.

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The foregoing resolution to approve the application for the requested floor area ratio variance is APPROVED and the undersized lot is acknowledged; was presented and moved by Mr. Quinn, seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: June 17, 2020

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
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DECISION

**FLOOR AREA RATIO, SIDE YARD, REAR YARD AND BUILDING HEIGHT
VARIANCES APPROVED; UNDERSIZED LOT ACKNOWLEDGED**

To: Michael and Katherine Donahue
46 Bauer Street
Tappan, New York 10983

ZBA #20-39
Date: June 17, 2020
Permit #49937

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#20-39: Application of Michael Donahue for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Group Q, Section 3.12, Columns 4 (Floor Area Ratio: 30% permitted, 46.1% proposed), 9 (Side Yard: 10' required, 9' 4" proposed), 11 (Rear Yard: 25' required, 18' 5 1/2" proposed), and 12 (Building Height: 20' permitted, 21' 7" proposed) (Section 5.21 Undersized lot applies) for an addition to an existing single-family residence. The premises are located at 46 Bauer Street, Tappan, New York and are identified on the Orangetown Tax Map as Section 77.08, Block 2, Lot 20; in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, June 17, 2020 at which time the Board made the determination hereinafter set forth.

Michael and Katherine Donahue appeared and testified.

The following documents were presented:

1. Plans labeled "Proposed Addition for Michael & Katherine Donahue" dated October 27, 2018 not signed not sealed by Uzziah Cooper Jr. Designs, (5 pages).
2. Two 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. Quinn, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

Michael Donahue testified that they are proposing to add about 1,000 sq. ft. to the house; that the lot is undersized; that they are proposing a front porch and connecting the existing single car garage to the house; that they love the neighborhood and do not want to move; that they have three kids and need more room and this is the most affordable way to get the space; that the garage will still be ten (10') feet from the property line and that several other houses in the area have done similar additions; that there are three on Derderer Street, one on Bauer Street and multiple homes on Virginia Street with similar size additions.

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Katherine Donahue testified that the addition will go over an existing patio and walkway; that there is an awning off the side door of the garage and that may make it look like it is getting larger but it is not changing and that they presently have three bedrooms and will have five small bedrooms when the addition is complete.

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 floor area ratio, side yard and building height variances and the existing rear yard variance 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 similar additions have been constructed in the neighborhood.
2. The requested floor area ratio, side yard and building height variances and the existing rear yard variance 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 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 floor area ratio, side yard and building height variances and the existing rear yard although somewhat substantial, 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 similar additions have been constructed in the neighborhood.

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5. The applicant purchased the property subject to Orangetown's Zoning Code (Chapter 43) and is proposing a new addition and/or improvements, so the alleged difficulty was self-created, which consideration was relevant to the decision of the Board of Appeals, but did not, by itself, preclude the granting of the area variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board RESOLVED that the application for the requested floor area ratio, side yard, and building height variances are APPROVED; and the existing rear yard and undersized lot are 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.

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

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The foregoing resolution to approve the application for the requested floor area ratio, side yard, building height variances are APPROVED and the existing rear yard and undersized lot is acknowledged; was presented and moved by Mr. Bonomolo, seconded by Mr. Quinn and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, 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: June 17, 2020

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
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TOWN CLERK
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MGMT. and ENGINEERING
FILE,ZBA, PB
CHAIRMAN, ZBA, PB, ACABOR

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