

MINUTES  
ZONING BOARD OF APPEALS  
March 3, 2021

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

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 Ms. Castelli, Acting Chairperson.  
Hearings on this meeting's agenda, which are made a part of this meeting, were held as noted  
below:

PUBLISHED ITEMS

APPLICANTS

DECISIONS

CONTINUED ITEM:

CASTAGNA 39 Delongis Court Sparkill, New York 77.12 / 1 / 34.25; RG zone	§5.227 ACCESSORY STRUCTURE YARD VARIANCES APPROVED § 5.152 ACCESSORY STRUCTURE DISTANCE FROM PRIMARY STRUCTURE VARIANCES APPROVED	ZBA#21-08
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NEW ITEMS:

THE CARPENTRY SHOP PERFORMANCE STANDARDS 238 Oak Tree Road Tappan, New York 77.15 / 3 / 18; LIO zone	PERFORMANCE STANDARDS ACCEPTED	ZBA#21-22
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AUGUSTINE 11 Henry Street Orangeburg, New York 74.13 / 1 / 43; RG zone	SIDE YARD VARIANCE APPROVED	ZBA#21-23
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MC KERNAN 4 Sherwood Lane Orangeburg, New York 64.20 / 1 / 10.2; R-40 zone	CONTINUED	ZBA#21-24
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SMITH 21 Hawk Street Pearl River, New York 69.18 / 1 / 53; R-15 zone	FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES APPROVED	ZBA#21-25
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OTHER BUSINESS:

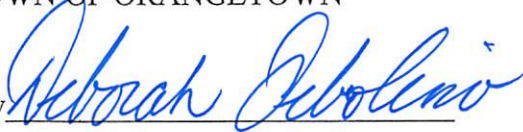
In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the Acting Chairperson executing on behalf of the Board its consent to the Planning Board acting as Lead Agency for the State Environmental Quality Review Act (SEQRA) coordinated environmental review of actions pursuant to SEQRA Regulations § 617.6 (b)(3) the following application: Lomar Farms conditional use permit, 390 Oak Tree Road, Palisades, NY, 74.20 / 3 / 5; RG zone; Hudson Crossing Monument Sign and Location Plan, 100 Corporate Drive, Blauvelt, NY 65.18/1/16' LI/LIO 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 9:30 P.M.

Dated: March 3, 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

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DECISION

§ 5.227 AND § 5.152 ACCESSORY STRUCTURE VARIANCES APPROVED

To: James Castagna  
39 Delongis Court  
Sparkill, New York 10976

ZBA #21-08  
Date: 01/ 20/ 2021& 3/3/2021  
Permit #48287

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA# 21-08: Application of James Castagna for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 5.227 ( Accessory Structure distance to side yard: 5' required, 1' existing) and from Section 5.152 (Accessory Structure shall not be closer than 15' from the primary structure: for an existing shed that is 3' from the house) at an existing single-family residence. The property is located at 39 Delongis Court, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 34.25 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on the following Wednesdays, January 20, 2021 and March 3, 2021 at which time the Board made the determination hereinafter set forth.

James Castagna appeared and testified.

The following documents were presented:

1. Plans labeled "J. Castagna 39 Delongis Court Sparkill NY" dated December 15, 2020 drawn by James Castagna. (3 pages)
2. Survey by Robert Rahnefeld dated September 7, 1999.

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

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

At the January 20, 2021 Hearing, James Castagna testified that he owns a condominium at Lawrence Park and Ms. Castelli is on the Board at the complex; that he wrote letters to his neighbors explaining his application and requested that they replied with their approval or concerns and he has six letters in support of the shed variances; that he has nine vintage motorcycles in his garage; that they are valuable and he cannot mix them with the lawn equipment, kids bikes and scooters because they could get damaged and would cost too much to repair; that the motorcycles are a passion for him; that they recently had a flood in the house and \$70,000.00 in damage; that this is how he found out that the sheds needed variances; the pergola has been in his back yard for about 18 years; and that he would like to request a continuance to supply the Board with its exact location and also obtain a variance for it if that is necessary.

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Public Comment:

No public comment.

At the March 3, 2021 hearing the following items were submitted:

1. Revised drawings showing the additional accessory structures on the property dated 1/21/2021 Shed #1, Shed #2, Trellis A, Trellis B, and Pergola ( 6 pages).
2. Seven letters from neighbors in support of the application.

As a result the publication was revised to:

**ZBA# 21-08: Application of James Castagna for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, RG District, Section 5.227 ( Accessory Structure distance to side yard: 5' required, 1' existing) and from Section 5.152 (Accessory Structure shall not be closer than 15' from the primary structure: for an existing shed that is 3' from the house; pergola 12' from house) at an existing single-family residence. The property is located at 39 Delongis Court, Sparkill, New York and are identified on the Orangetown Tax Map as Section 77.12, Block 1, Lot 34.25 in the RG zoning district.**

James Castagna testified that he is sorry that he was late for the hearing, he was helping his son study for a math test; that he was continued last time to clarify the location of the Pergola that has a certificate of occupancy but was suspected to be close to the primary structure and to keep everything on the same page the Board recommended to add that structure to the requested variances and he appreciates the Board's vigilance; and that this time he has letters in support from seven neighbors including the neighbor to his rear property line.

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 §5.153 and § 5.227 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The property is well kept and the structures in the rear of the house are not visible to neighbors because of the six foot vinyl fence. Many neighbors support the applicants need for the variances for the accessory structures. The raised garden beds with trellises are not considered structures that would require variances.

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2. The requested §5.153 and § 5.227 variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property is well kept and the structures in the rear of the house are not visible to neighbors because of the six foot vinyl fence. Many neighbors support the applicants need for the variances for the accessory structures. The raised garden beds with trellises are not considered structures that would require variances.
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 §5.153 and § 5.227 variances 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. The property is well kept and the structures in the rear of the house are not visible to neighbors because of the six foot vinyl fence. Many neighbors support the applicants need for the variances for the accessory structures. The raised garden beds with trellises are not considered structures that would require variances.
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 §5.153 and § 5.227 variances as amended for the March 3, 2021 hearing 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.

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


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

The foregoing resolution to approve the application for the requested §5.153 and § 5.227 variances are APPROVED as amended for the March 3, 2021 Zoning Board Hearing; 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: March 3, 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-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

**PERFORMANCE STANDARDS CONFORMANCE APPROVED**

To: Natalie Dion (The Carpentry Shop)  
238 Oak Tree Road  
Tappan, New York 10983

ZBA #21-22  
Date: March 3, 2021  
Permit #50407

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-22: Application of The Carpentry Shop requesting the Zoning Board of Appeals' review, and determination, of conformance with the Town of Orangetown Zoning Code (Orangetown Code Chapter 43) Section 4.1 Performance Standards custom architectural wood work and mill work considered light manufacturing. The property is located at 238 Oak Tree Road, Tappan, New York and is identified on the Orangetown Tax Map as Section 77.15, Block 3, Lot 18 in the LIO zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2021 at which time the Board made the determination hereinafter set forth.

Natalie and Julian Dion appeared and testified.

The following documents were presented:

1. Plans labeled "Dean/Carson Tappan LLC" prepared by Natalie Dion dated January 5, 2020 showing placement of machinery and dust collection.
2. A cover letter previously submitted to the Planning Board for the Conditional Use Permit.
3. A pages with pictures showing the services offered by the company.( 3 pages)
4. Resume of Operations (15 pages). With an additional page listing all of the paint and finishes used by the company.
5. Planning Board Decision # 20-42 dated October 28, 2020.
6. Memorandum dated February 23, 2021 from Eamon Reilly, P.E., Commissioner, Department of Environmental Management and Engineering, Town of Orangetown.
7. Memorandum dated February 8, 2021 from Michael Weber, Industrial Treatment Coordinator, Department of Environmental Management and Engineering, Town of Orangetown.
8. An email response from the applicant dated February 23, 2021 and an email response from Mike Weber dated February 25. 2021.
9. Memorandum dated February 8, 2021 from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Department of Environmental Management and Engineering, Town of Orangetown.
10. A memorandum dated February 8, 2021 from Bruce Peters, Engineer III, Department of Environmental Management and Engineering, Town of Orangetown.
11. A memorandum dated February 26, 2021 from David Majewski, Chief Fire Safety Inspector, Town of Orangetown.
12. A letter dated February 23, 2021 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.

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13. A letter dated March 3, 2021 from Joseph LaFiandra, Rockland County Sewer District No. 1.

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

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Sullivan moved for a Board determination, based upon the testimony heard by this Board and the facts as presented in the application submissions and in the record, that since the application entails the ZBA engaging in a review to determine compliance with technical requirements,, this application is exempt from environmental review under the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (34); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Mr. Bosco, aye; Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; and Ms. Castelli, aye.

Natalie Dion testified that she and her husband own their own carpentry shop; that they started out as a landscape company but found their own niche in furniture for outdoor and inside; that they design and build outdoor furniture, gazebos, benches, tables; that the space they are in allows them room for a showroom and customers can come in and see slabs of raw wood that are used for custom made tables; that they employ three guys to help her husband and one woman for office work; that they have been in the building for almost a year; that they appeared before the planning board for a Special Permit; that they do work in the city and have the trucks parked in the rear of the building; that they do roof top gardens and hand carry everything in; that they do not do plants; that they started the business eight years ago and have found their specialization in outdoor garden furniture and want to keep growing the carpentry side of the business; that the dust collection system is really dust bags on specific machines that are emptied into large trash bags and disposed of in the trash; that the open area in the garage is where the bigger dust collection is; that they are moving forward with all natural finishes and will not be using any polyurethane, that she just wanted to list everything that is presently in the shop; that they have not, and will not be using this; that their mission statement is to use all natural finishes that hold up better and are better for the environment; and that they will address all the concerns of the fire inspector.

Julian Dion testified that the entire building is 5,000 sq. ft.; that they use less than half of that for woodworking and they will discuss this with the fire inspector.

The Board reviewed the Performance Standards and Fire Supplement forms.

Michael Bosco asked the applicant to discuss the F-1 occupancy with Fire Inspector.

Tom Quinn asked about the dust collection.

Dan Sullivan asked the applicant to update the Resume of Operations on page 4 to include decibel levels as shown on page 5.

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 Mr. Bosco and carried unanimously.

**FINDINGS OF FACT AND CONCLUSIONS:**

After personal observation of the property, hearing all the testimony and reviewing all of the documents submitted, the Board found and concluded that:

Based upon the information contained in the applicant's Resume of Operations and Equipment, and the Fire Prevention Supplement; the reports dated February 8, 2021 and e-mail dated February 25, 2021 from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated February 8, 2021, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); memo dated February 8, 2021, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the Memorandum dated February 23, 2021 from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); the report dated February 26, 2021 from David Majewski, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P.); Letter dated March 3, 2021 from Joseph LaFiandra, Engineer II, Rockland County Sewer District No.1; Letter dated February 23, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; the other documents submitted to the Board, and the testimony of Applicant's representatives, the Board finds and concludes that the application conforms with the Performance Standards set forth in Zoning Code Section 4.1, subject to compliance with the orders, rules and regulations of the Orangetown Office of Building, Zoning & Planning Administration & Enforcement, D.E.M.E., B.F.P., and all other departments having jurisdiction of the premises.

**DECISION:** In view of the foregoing and the testimony and documents submitted, the Board: **RESOLVED** that the Application for Performance Standards Conformance, pursuant to Zoning Code § 4.1, is **APPROVED** with the following **SPECIFIC CONDITIONS** that the Applicant: (1) Submit a revised Resume of Operations that complies with the discussion of page four of the resume of operations and complies with the comments contained in: (2) memo dated February 8, 2021 ( answered in e-mail dated February 25, 2021) from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated February 8, 2021, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated February 8, 2021, from Dylan Hofsis, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandum dated February 23, 2021, from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated February 26, 2021 from David Majewski, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); (6) Letter dated March 3, 2021 from Joseph LaFiandra, Engineer II, Rockland County Sewer District No.1; (7) Letter dated February 23, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; **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.

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General Conditions:

- (i) The approval of any variance, Performance Standards Conformance, 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, Performance Standards Conformance, or Special Permit by the Board is limited to the specific variance, Performance Standards Conformance, 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 Performance Standards Conformance, variances, or Special Permit 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, Performance Standards Conformance, 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 approved variance, Performance Standards Conformance, or Special Permit will lapse if any contemplated construction of the project or any use for which the variance, Performance Standards Conformance 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 conformance to Performance Standards with the following conditions that the applicant submit a revised Resume of Operations that complies with the discussion of page 4 of the resume of operations and complies with the comments contained in: ( 1) Submit a revised Resume of Operations that complies with the discussion of page four of the resume of operations and complies with the comments contained in: (2) memo dated February 8, 2021 ( answered in e-mail dated February 25, 2021) from Michael Weber, Chief Operator and Bruce Peters, Engineer III, memo dated February 8, 2021, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (3) memo dated February 8, 2021, from Dylan Hofsiss, Junior Public Health Engineer and Zoning Enforcement Officer, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (4) the Memorandum dated February 23, 2021, from Eamon Reilly, PE, Commissioner, Town of Orangetown Department of Environmental Management and Engineering (D.E.M.E.); (5) the report dated February 26, 2021 from David Majewski, Chief Fire Inspector, Town of Orangetown Bureau of Fire Prevention (B.F.P); (6) Letter dated March 3, 2021 from Joseph LaFiandra, Engineer II, Rockland County Sewer District No.1; (7) Letter dated February 23, 2019 signed by Douglas J. Schuetz, Acting Commissioner of Planning, Rockland County Department of Planning; was presented and moved by Mr. Sullivan, seconded by Mr. Bosco and carried as follows: Mr. Quinn, aye; Mr. Sullivan, aye; Mr. Bonomolo, aye; Mr. Bosco, 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: March 3 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- needs new assignment was D.M.

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

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DECISION

**SIDE YARD VARIANCE APPROVED**

To: Joseph Jacob  
61 Demarest Avenue  
West Nyack, New York 10994

ZBA #21-23  
Date: March 3, 2021  
Permit #50939

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-23: Application of Sajjan Augustine for a variance from Zoning Code (Chapter 43) of the Town of Orangetown Code, Section 3.12, RG District, Group Q, Column 9 (Side Yard: 10' required, 9.9' existing: **changed from a rear yard at the hearing**) for an existing enclosed porch and deck at an existing single-family residence. The property is located at 11 Henry Street, Orangeburg, New York and are identified on the Orangetown Tax Map as Section 74.13, Block 1, Lot 43 in the RG zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2021 at which time the Board made the determination hereinafter set forth.

Joseph Jacob and Shajan Thottakara, P.E., appeared and testified.

The following documents were presented:

1. Plans labeled "Legalization of Existing Deck/Enclosed Porch" dated December 14, 2020 signed and sealed by Shajan S. Thottakara, P.E. (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 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.

Shajan Thottakara, P.E., testified that Mr. and Mrs. Mathew purchased the property in 1985 and this structure existed at the time; that they did get a permit while living in the house to convert a half bath into a full bath; that Mr. Mathew passed away in 1998 and Mrs. Mathew recently moved into the city; that he lived with them in the house in 1993 through 1994 and this structure existed then; that they have sold the house and need to legalize the structure; that it is a corner lot and if asked if the yard could be considered a side yard but he was told that it cannot and he has an email from the building inspector stating that; and that this structure does not cause any change to the character of the neighborhood because it has existed for at least 35 years; and Mr. and Mrs. Mathew bought the house with the structure there.

The Board discussed the application and decided that the rear yard could be the northern portion of the yard and the east side could be named the side yard and the variance request would be for 9.9' to the stairs.

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Public Comment:

James Healy, 5 Hollis Street testified that this is more than a deck, that it is an enclosed room with a roof and windows; and that there is a lot of people in the house; and that he looks at it at every day riding up the street.

Cindy Lymberatos, 6 Hollis Street, testified that she is the house closest to the structure and that she would like to the distance from that structure to the back of her house; that the change has been all of the noise coming from the house.

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 rear yard variance which was change to a side yard variance by the Board (applicant has two front yards) will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The structure has existed for at least 36 years and the house was sold to the last owner with the structure existing.
2. The requested rear yard variance which was changed to a side yard variance by the Board (applicant has two front yards) will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. . The structure has existed for at least 36 years and the house was sold to the last owner with the structure existing.
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 rear yard variance which was changed to a side yard variance by the Board (applicant has two front yard) is not substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. . The structure has existed for at least 36 years and the house was sold to the last owner with the structure existing.

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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 side yard 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 side yard variance **(changed from a rear yard at the hearing)** is APPROVED; was presented and moved by Ms. Castelli, 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: March 3, 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

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DECISION

**FLOOR AREA RATIO, SIDE YARD AND TOTAL SIDE YARD VARIANCES  
APPROVED**

To: Matthew and Kimberly Smith  
21 Hawk Street  
Pearl River, New York 10965

ZBA #21-25  
Date: March 3, 2021  
Permit #50483

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#21-25: Application of Matthew and Kimberly Smith for variances from Zoning Code (Chapter 43) of the Town of Orangetown Code, R-15 District, Section 3.12, Group M, Columns 4 (Floor Area Ratio: 20% permitted, 23% proposed), 9 (Side Yard: 20' required, 19.31' and 11.10' proposed) and 10 (Total Side Yard: 50' required, 30.41' proposed) for an addition to an existing single-family house. The premises are located at 21 Hawk Street, Pearl River, New York and is identified on the Orangetown Tax Map as Section 69.18. Block 1, Lot 53 in the R-15 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, March 3, 2021 at which time the Board made the determination hereinafter set forth.

Matthew and Kimberly Smith appeared and testified.

The following documents were presented:

1. Plans labeled "The Smith Residence- Addition" dated February 23, 2018 with the latest revision date of November 20, 2020 signed and sealed by Barbara Hess, Architect. (4 pages).
2. Two color pictures of houses in the neighborhood with similar additions.
3. Three letters 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.

Matthew Smith testified that they are proposing an addition to the rear and side of the house; that the previous owners had converted an enclosed porch into a kitchen without a permit and they are fixing that and they replaced and slightly enlarged a deck that needed repair on the other side of the house; that the wrap around porch is something that his wife has always wanted; and they purchased the house four years ago.

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Kimberly Smith that their neighbor's, the O'Sullivan's did an addition a few years ago that required similar variances and she submitted two color pictures of house with similar additions in the immediate neighborhood and three letters of support for the application and one of the letters is from the neighbor most affected by side porch addition.

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 total side yard variances 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, 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. 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 variances.
4. The requested floor area ratio, 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 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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LAURENCE G. GARDNER  
100 N. 4th St. - 2nd Fl. - St. Paul  
MINN. 55102



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 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.


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The foregoing resolution to approve the application for the requested floor area ratio, side yard and total side yard variances 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: March 3, 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-Glenn M.

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

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