

**CITY OF ORANGE HISTORIC PRESERVATION COMMISSION**

**DATE: JULY 21, 2021**

**NUMBER: 16-2021**

**TITLE: A RESOLUTION OF THE CITY OF ORANGE TOWNSHIP HISTORIC PRESERVATION COMMISSION GRANTING CERTIFICATE OF APPROPRIATENESS FOR 660 NASSAU STREET, CITY OF ORANGE TOWNSHIP, N.J., WHICH IS BLOCK 6001, LOT 1 ON THE CITY OF ORANGE TOWNSHIP TAX MAP, TO REPLACE WOODEN FENCE WITH NEW WOODEN FENCE ON THE PROPERTY.**

WHEREAS, the Owner / Applicant David Joseph submitted an Application for a Certificate of Appropriateness for the replacement of wooden fence panels on their fence from the side of their home to the rear of the property at the Owner's residential home at 660 Nassau Street, which is Block 6001, Lot 1 on the City of Orange Township Tax Map; and

WHEREAS, the Commission received and reviewed the Application, Estimate/Contract from Challenger Fence, three (3) photographs of the existing fencing, photograph and information on the replacement fence from the Home Depot website, City of Orange Zoning Permit, Challenger Fence, Inc. registration with the State of New Jersey, Survey by Canfora Surveying, Inc.; and

WHEREAS, the Commission listened to the testimony presented by David Joseph, who was sworn and presented testimony at the presentation of the Application and public hearing on June 16, 2021; and

WHEREAS, the Application was the subject of public notice by virtue of the publication of the agenda of the Historic Preservation Commission, and the Commission provided an opportunity for comments from the public and interested parties and all members of the Commission voting on this resolution attended the public hearing(s) or have certified that they have read the transcript(s) or listened to the tape(s) of the hearing pursuant to N.J.S.A. 40:55D-10.2; and

WHEREAS, the Commission reviewed the Application and additional materials and is granting approval in reliance upon the representations made in the Application, the original survey and (if any) revised survey, together with the sworn testimony and representations of the Owner in the public presentation; and

WHEREAS, the Commission, after carefully considering the evidence submitted by the Applicant, its own professionals and City's professional staff, if any, and the general public, makes the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

A. The Owner /Applicant, David Joseph, of the property known as 660 Nassau Street, designated as Block 6001, Lot 1 on the City of Orange Township Tax Map, submitted an Application for a Certificate of Appropriateness seeking approval to install a new six-foot high wooden fence on the rear of his property for the purposes of privacy.

- B. The property is located in the Orange Valley Historic District.
- C. The existing fence is in disrepair and there is no fence for a large portion of the area where the Applicant/Owner desires to install a fence for privacy reasons.
- D. Based on the Application dated June 13, 2021, the sworn testimony of Mr. Joseph and the presentations he stated in his testimony, an estimate with a drawing prepared by Challenger Fence, the contractor, a survey dated August 20, 2019 prepared by Canfora Surveying, Inc. (Jeffrey A. Canfora, P.L.S.), and the color photographs presented of the proposed product, to wit, a 6 ft. high x 8 ft. wide (panel size) pressure treated pine “dog ear” wood fence, submitted with the Application, the Commission found that the new pine “dog ear” type fence as proposed and described above and as shown in the photograph submitted may be installed only along the entire rear lot line and right side lot line only from the intersection with the rear lot line to a point parallel to the right rear corner of the house, a distance of fifty-eight (58) feet, with a double gate at that point across the driveway, approximately 10.96 feet wide, to the right rear corner of the house.
- E. The fence shall be installed on the inside of the property line and shall not use any of the “gore” property shown on the right side of the Applicant’s/Owner’s lot in the survey.
- F. The Commission further found that the fence will be not visible from the street except to the extent that a passerby may peer down the driveway and see the gate and a small portion of the right side fence.
- G. Because vinyl fencing is not allowed in the historic district per the Design Guidelines, testimony was elicited from Mr. Joseph that no vinyl fencing will be installed on any side of the lot now or in the future, and that he will agree to that as a condition of this approval; Mr. Joseph agreed. Any future application to install a fence along the side yards of the property would have satisfy the Historic Design Guidelines as to the material, location and height requirements, as well as any City ordinance regulating fences in the side yard and front portion of the sides of the property.
- H. At the public hearing portion of the meeting, there were no comments from the public.
- I. Based on the Application, photographs, survey, estimate and drawing, and testimony provided as to the need for a rear and partial side lot line privacy fence and the minimal effect the fence would have on the historic district, the Commission agreed to the request to install a new fence along the rear lot line and partial side lot line only together with a gate at the rear right corner of the house on the property. This approval is limited to the new fence.

## **II. CONCLUSIONS OF LAW**

- A. The Commission agreed that the Application to install a new fence warranted relief, and would not seriously encroach upon or significantly adversely affect the goals of the Orange Valley Historic District, the City’s Master Plan, the zone plan and ordinance, Design Guidelines, and the Municipal Land Use Law.

B. The Commission found that the Applicant demonstrated by virtue of the Application, estimate and drawing, survey, photographs and testimony as to the need for the new privacy fence, that the relief sought is warranted, and that a Certificate of Appropriateness shall issue for the new fence along the rear lot line and partial side lot line and gate across the driveway at the point of the rear right corner of the house only.

C. The Historic Preservation Commission approved the issuance of a CERTIFICATE OF APPROPRIATENESS to the Applicant and Owner for a new wood fence on the foregoing terms and conditions.

D. This is not a zoning approval. The OHPC does not examine applications with respect to either zoning or use including bulk variances such as setbacks. This is not a building or construction permit. This is not an approval of any side yard, rear yard or front yard setbacks, maximum lot coverage, floor area ratio, impervious surface, or compliance with any other local land use ordinance requirement, site plan ordinance requirement, or any other code, including but not limited to International Residential Code, National Electrical Code, National Standard Plumbing Code, International Energy Conservation Code, International Mechanical Code, International Fuel Gas Code, N.J. Rehabilitation Sub-code, and the N.J. Barrier Free Sub-code.

### **III. ADDITIONAL CONDITIONS OF APPROVAL**

A. AS A CONDITION OF THIS APPROVAL, THE CONSTRUCTION MUST PROCEED IN STRICT COMPLIANCE WITH THE PLANS AND/OR REPRESENTATIONS MADE IN THE TESTIMONY SUBMITTED, AS THOSE PLANS AND THE REPRESENTATIONS MADE BY THE APPLICANT IN HIS, HER OR ITS TESTIMONY ARE WHAT IS APPROVED BY THE COMMISSION. SHOULD ANY CHANGE BE MADE INCONSISTENT WITH THE PLANS OR TESTIMONY, THE APPLICANT MUST RETURN TO THE HISTORIC PRESERVATION COMMISSION FOR AN AMENDED CERTIFICATE OF APPROPRIATENESS. "FIELD ADJUSTMENTS" THAT RESULT IN ANY SIGNIFICANT CHANGE WILL NOT BE TOLERATED AND A STOP WORK ORDER WILL ISSUE, NECESSITATING A RETURN APPEARANCE BEFORE THE COMMISSION AT THE FOLLOWING MONTHLY MEETING. ANY DELAY OR DELAY DAMAGES ASSERTED BY THE CONTRACTOR OR OTHERS WILL BE STRICTLY THE FAULT OF THE OWNER, APPLICANT AND/OR CONTRACTOR FOR NOT PROPERLY EXECUTING THE PLANS OR ABIDING THE TESTIMONY SUBMITTED WHICH RESULTED IN THIS APPROVAL.

B. PLANS: All revisions to the Application as described and the papers submitted, including plans and drawings (if any) after the first submission must be properly identified on subsequent submissions and submitted for review and become part of the file for this property at the City of Orange Township.

C. UTILITIES, PROTECT ADJACENT CONSTRUCTION, AND INHABITANTS/NEIGHBORS: Comply with all applicable requirements of governing authorities including, but not limited to, public utilities (provide mark-out and 24 hour notification

of any discontinuity of utility services with owner). Provide temporary facilities, service utilities, and protection as required to safely execute all work.

D. CONSTRUCTION DEBRIS: Contractor shall be responsible to remove and legally dispose of all materials from the job site. A permit may be required to place a unit for storage of debris at the job site or in the street. This is the Applicant's responsibility to obtain.

E. PLANS AND DRAWINGS: The contractor shall prepare and maintain a complete set of record construction drawings (if any) indicating all actual work, modification and revisions to the work delineated on the construction drawings as well as any concealed construction work. Include any other information which would be helpful to the owner, at the site.

F. SUBSTANTIAL COMPLETION: At project closeout, contractor shall procure final certificate of occupancy upon completion of the project and forward same to the owner. Contractor shall clean premises, test applicable systems, and leave ready for occupancy.

G. PERMITS: The Applicant shall be responsible for obtaining and paying for all the required permits, inspections, etc.

H. PROJECT COMPLETION: Upon FULL completion of the project, architect and/or contractor to submit certificate of occupancy or continued certificate of occupancy approved by the Building Department to the owner.

I. CODE AND STANDARDS COMPLIANCE: All work, materials, and equipment shall meet the latest requirements of all applicable state & local building codes, regulations, the requirements of the authorities having jurisdiction over this work and project, and where applicable, with the standards of the Secretary of Interior for Rehabilitation and the requirements of the NJUCC Barrier Free Subcode and/or Americans With Disabilities Act (ADA).

NOW, THEREFORE, BE IT RESOLVED, by the City of Orange Township Historic Preservation Commission that the Application for a Certificate of Appropriateness for the work described in the Application, is approved and granted subject to the foregoing conditions in Section I. A through H, Section II. A through D, Section III. A through I, and Section IV. A-D, hereof, and the following additional conditions of Section V to VIII, where applicable:

#### IV. PLAN REVISIONS AND SUBMISSIONS

Prior to signing the final site plan approval, Applicant shall submit any requested revisions to the plans or otherwise provide studies, plans, or documents, as follows:

A. The Applicant should address all of the findings, if any, in the comments and reports made by the City Engineer, Police Department, Fire Department, and any other relevant departments and agencies, in addition to the Department of Public Works and all of its officers and divisions, if any.

B. Pursuant to City of Orange Township municipal ordinance, prior to the issuance of building permits, the Applicant shall have installed or shall have furnished any required performance

guarantees for the ultimate installation of all streets, street signs, curbs, gutters, sidewalks, street lighting, shade trees, storm drains, sanitary sewerage and utilities, monuments, and/or top soil required, if any, by this approved work.

C. The Applicant shall ensure that its general contractor and subcontractors do not damage the roadway pavement, curbing, sidewalk, grass strip between the curb and the sidewalk or any other improvements in the public right of way, whether on the public right of way or the privately owned property including but not limited to slate or bluestone sidewalks and walk ways. A note shall be added to the plans stating, "Any damage to the right of way including the sidewalk must be repaired / installed to equal standards."

D. **OTHER APPROVALS.** Prior to signing the final site plan, Applicant shall submit any requested revisions to the plans or otherwise shall obtain and comply with the requirements of all outside agencies from which approval is required, and it shall be Applicant's duty to determine whether such further approvals are required, including but not limited to:

1. Final approval of the Essex County Planning Board, if required.
2. Final approval from and comply with the requirements of the Essex County Soil Conservation Service, if required.
3. All other necessary approvals from applicable county, state, regional and federal agencies, as required.

**V. TAXES**

Applicant shall pay any outstanding real estate taxes and assessments within fourteen days of this Resolution and provide proof by an official search for municipal liens.

**VI. FEES**

Applicant will post an escrow fee to cover and pay for the professionals' review of this application and preparation of this Resolution in accordance with City ordinance. Applicant will pay all outstanding escrow and application fees within fourteen days of the Resolution and receipt by Applicant of the bills for such charges including those that arrive after the Resolution is memorialized. No construction permits will be issued until this section is satisfied.

**VII. INSPECTION FEES**

Applicant shall post inspection fees, in an amount to be determined by the City Engineer, before any improvements are installed, if and as required by the City.

**VIII. SATISFACTION OF CONDITIONS**

This approval of the Certificate of Appropriateness shall not be deemed satisfied and construction permits shall not be issued until such time as the Director of the Department of Public Works and/or his designee and/or the City Engineer finds that all conditions of approval have been satisfied.

**ROLL CALL ON THE MOTION TO APPROVE:**

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Keith Carroll	<u>X</u>	_____	_____	_____
Kathy Dowd (2nd)	<u>X</u>	_____	_____	_____
Jody Leight	<u>X</u>	_____	_____	_____
Brandon Matthews	_____	_____	_____	<u>X</u>
Janice Morrell (mover)	<u>X</u>	_____	_____	_____
Troy Simmons	_____	_____	_____	<u>X</u>
Abdiel Velez	_____	_____	_____	<u>X</u>
Karen Wells	<u>X</u>	_____	_____	_____

**MEMORIALIZATION:**

This Resolution adopted this 21st day of July, 2021 memorializes the action taken at a meeting of the City of Orange Township Historic Preservation Commission with the roll call vote on the memorialization as follows:

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Absent</b>
Keith Carroll	_____	_____	_____	<u>X</u>
Kathy Dowd (M)	<u>X</u>	_____	_____	_____
Jody Leight (S)	<u>X</u>	_____	_____	_____
Brandon Matthews	_____	_____	<u>X</u>	_____
Janice Morrell	_____	_____	_____	<u>X</u>
Troy Simmons	_____	_____	_____	<u>X</u>
Abdiel Velez	_____	_____	<u>X</u>	_____
Karen Wells	<u>X</u>	_____	_____	_____

I hereby certify that the foregoing is a true copy of a Resolution of the City of Orange Township Historic Preservation Commission memorialized on July 21, 2021.

**APPROVED: July 21, 2021**

*Joyce L. Lanier*

*Jody Leight*

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Joyce L. Lanier  
Secretary

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Jody Leight  
Acting Chair