

MINUTES  
ZONING BOARD OF APPEALS  
April 22, 2009

MEMBERS PRESENT: PATRICIA CASTELLI  
DANIEL SULLIVAN  
NANETTE ALBANESE  
WILLIAM MOWERSON  
JOAN SALOMON

ABSENT: NONE

ALSO PRESENT: Dennis Michaels, Esq. Deputy Town Attorney  
Richard Pakola, Esq. Deputy Town Attorney  
Ann Marie Ambrose, Official Stenographer  
Deborah Arbolino, Administrative Aide

This meeting was called to order at 7: 00 P.M. by Chairman Mr. Mowerson.

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:

INERTIA SWITCH INC. 74.07 / 1 / 14; LIO zone	CARETAKER APPROVED WITH CONDITIONS	ZBA#09-17
---	---------------------------------------	-----------

NEW ITEMS:

BONARDI 70.09 / 2 / 34; R-40 zone	SIDE YARD VARIANCE APPROVED	ZBA#09-19
--------------------------------------	--------------------------------	-----------

QUINN 68.19 / 3 / 29; RG zone	FLOOR AREA RATIO, ACCESSORY STRUCTURE VARIANCES APPROVED WITH CONDITION	ZBA#09-20
----------------------------------	--	-----------

CORREALE 69.18 / 3 / 1; R-15 zone	SIDE YARD VARIANCE APPROVED	ZBA#09-21
--------------------------------------	--------------------------------	-----------

BIONDI 75.05 / 1 / 13; R-22 zone	CONTINUED	ZBA#09-22
-------------------------------------	-----------	-----------

OTHER BUSINESS:

In response to requests from the Orangetown Planning Board, the Zoning Board of Appeals: RESOLVED, to approve the action of the 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: Blauvelt Free Library Site Plan Review, 541 Western Highway, Blauvelt, NY, 70.14 / 2 / 45; CS zone; Palladino Site Plan Review, Site between NYS Route 303 on the east and Greenbush Road on the west, Town of Clarkstown forms the northerly property line, Blauvelt, NY 65.15 / 1 / 1; LO/R-40 zone; and FURTHER RESOLVED, to request to be notified by the Planning Board of SEQRA proceedings, hearings, and determinations with respect to these matters.

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 11:00 P.M.

Dated: April 22, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino  
Administrative Aide

DISTRIBUTION:

APPLICANT  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
ASSESSOR  
HIGHWAY DEPARTMENT  
SUPERVISOR  
TOWN BOARD MEMBERS  
BUILDING INSPECTOR (Individual Decisions)  
DEPT. of ENVIRONMENTAL MGMT. and ENGINEERING  
Rockland County Planning

DECISION

**APPROVED WITH CONDITIONS**

To: Donald Brenner (Inertia Switch)

ZBA # 09- 17

4 Independence Avenue  
Tappan, New York 10983

Date: 4 /22 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-17: Application of Inertia Switch for variances and/or authorization from Chapter 43 (Zoning), LIO District, Section 3.11 refers to LO District, Column 5 # 1 Accommodations for caretaker subject to §5.228 Section 3.11 LIO>LO #1 General Accessory Use for caretaker; for caretaker residence and storage. The site is located at 70 South Greenbush Road, Orangeburg, New York, and are identified on the Orangetown Tax Map as Section 74.07, Block 1, Lot 14; LIO zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 22, 2009 at which time the Board made the determination hereinafter set forth.

Brian De Girolamo and Donald Brenner, Attorney, appeared and testified.

The following documents were presented:

1. Architectural plans dated 1/5/09 (5 pages) signed and sealed by Kathryn Connell, Architect.
2. Copy of survey.
3. A letter dated February 27, 2009 from the County of Rockland Department of Planning signed by Salvatore Corallo, Commissioner of Planning.

4. A letter dated February 6, 2009 from the County of Rockland Department of Health signed by Scott McKane, P.E.
5. A letter dated February 26, 2009 from the County of Rockland Drainage Agency signed by Edward F. Devine, Executive Director.
6. A letter dated March 6, 2009 from the County of Rockland Department of Highways signed by Sonny Lin, P.E.
7. A letter dated April 16, 2009 from Donald Brenner to Ron Delo, Department of Environmental Management and Engineering.

Mr. Mowerson made a motion to open the Public Hearing which motion was seconded by Ms. Salomon and carried unanimously.

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson 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) (7), (10), and / or (12); which does not require SEQRA environmental review. The motion was seconded by Ms. Salomon and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; and Mr. Sullivan; aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

Brian Di Girolamo testified that his is Chief Engineer for Inertia Switch; that it is a family run business that he inherited in 1992; that they rented the property and then purchased it; that they do a lot of work for the government; that they operate 2/3 shifts; that when a large order is placed he sleeps in the additional building because the third shift is automated and needs to be checked; that he has a house in Nanuet and prefers to sleep at home; that the business was located next to the Saturn building in West Nyack before moving to Orangetown; that the business has been family owned for thirty years; that they manufacture tactile weapons for helicopters and the air force and space station; and that the structure has existed since he leased the property.

Donald Brenner, Attorney, testified that nothing is built on the property; that the reference letters are not really applicable because they are applying to allow the owner to stay in the existing building when the company has large orders pending; that the existing building has water and sewer capabilities; that the applicant purchased the property in 2003 and leased it in 1998; that the building existed before he leased it; that if the building is built over a town sewer easement they will get approval from the Town to keep it there; that the owner has agreed to pay any cost that could be incurred if work needs to be done in the sewer easement; an agreement similar to the one that was approved for the Sparkill Nursery project; that they are seeking a Special Permit to use the structure from time to time as temporary shelter; that the Certificate of Occupancy would require that the code be met; and that many of the comments from the county agencies are not applicable because there is no proposed construction but they will comply with the letters.

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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Sullivan 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 accommodations for caretaker subject to Board Authorization of Chapter 43 (Zoning) §5.228, § 3.11 LIO>LO #1 General Accessory Use for caretaker, for caretaker residence and storage will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The applicant has agreed to submit a Defense, Indemnification and Hold Harmless agreement satisfactory to the Town Attorney's office in regard to any work in the sewer easement that may affect the existing structure that is to be used by the owner of Inertia Switch as the caretaker.
2. The requested accommodations for caretaker subject to Board Authorization of Chapter 43 (Zoning) §5.228 Section 3.11 LIO>LO #1 General Accessory Use for caretaker, for caretaker residence and storage will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. No new construction is proposed.
3. The benefits sought by the applicant cannot be achieved by any other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested accommodations for caretaker subject to Board Authorization of Chapter 43 (Zoning) §5.228 Section 3.11 LIO>LO #1 General Accessory Use for caretaker, for caretaker residence and storage, is not substantial, because there is no proposed construction and will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant is requesting to change the use of the subject building, 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 variance.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested variances and/or Board Authorization pursuant to §5.229 of Chapter 42 (Zoning) if the Orangetown Code are APPROVED with the SPECIFIC CONDITIONS that the applicant, owner of Inertia Switch, is the only caretaker for the business and that the applicant submit a Defense, Indemnification and Hold Harmless agreement concerning any and all work that may occur in the sewer easement in substance and form to the satisfaction of the Town Attorney's Office; 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.

The foregoing resolution to approve the application for the requested variances and/or Board Authorization pursuant to §5.228 of Chapter 43 (Zoning) of the Orangetown Code for accommodations for caretaker subject to 5.228 Section 3.11 LIO>LO #1 General Accessory Use for caretaker, for caretaker residence and storage was presented and moved by Mr. Mowerson, seconded by Ms. Salomon, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: April 22, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

**DISTRIBUTION:**

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR -L.P.

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

**DECISION**

**SIDE YARD VARIANCE APPROVED**

To: Michael and Christine Bonardi  
49 Burrows Lane  
Blauvelt, New York 10913

ZBA # 09-19

Date: 4 /22 / 09

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-19: Application of Michael and Christine Bonardi for a variance from Chapter 43,(Zoning) Section 3.12, R-40 District, Group E, Columns 9 (Side Yard: 30' required 11' proposed) for the installation of an above-ground pool to an existing single-family residence. The premises is located at 49 Burrows Lane, Blauvelt, New York, and are identified on the Orangetown Tax Map as Section 70.09, Block 2, Lot 34; R-40 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 22, 2009 at which time the Board made the determination hereinafter set forth.

Michael Bonardi appeared and testified.

The following documents were presented:

1. Copy of survey with pool shown.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Ms. Castelli 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) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Ms. Salomon, aye; and Mr. Sullivan; aye; and Mr. Mowerson, aye.

Michael Bonardi testified that his property is narrow and deep; that they are proposing to place the pool on the left side of the property to maintain visual contact with the pool from the house; that there is a large old tree in the center of the property that they want to preserve; that they are also planning on using the existing shed for solar panels for the pool; that they have two children aged 14 and 12; that the lot is undersized for the zone; and the pool would be approximately 80' from the house.

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.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools with similar yard setbacks have been installed in the area.
2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The lot is an undersized lot for its zoning district and it is also a long narrow lot.
3. The benefits sought by the applicant cannot be achieved by any other means feasible for the applicant to pursue other than by obtaining a variance.
4. The requested side yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant purchased the undersized, lot and is proposing to erect a new pool 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.

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Albanese, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: April 22, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR -R.O.

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

DECISION

**FLOOR AREA RATIO, ACCESSORY STRUCTURE SIDE YARD AND REAR  
YARD VARIANCES APPROVED**

To: Michael Quinn

ZBA # 09-20

9 South Magnolia Street

Date: 4 /22 / 09

Pearl River, New York 10965

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#09-20: Application of Michael Quinn and Bridgeet Wentworth for variances from Chapter 43, (Zoning) Section 3.12, RG District, Group Q, Columns 4(Floor Area Ratio:.30 permitted, .34 existing, .41 proposed) and from Section 5.227 -Accessory Structure Distance: Side Yard: 5' required, 3' proposed; Rear Yard, nonconforming 1.5' existing and proposed; for an addition to an existing garage at a single-family residence. The premises is located at 9 South Magnolia Street, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 68.19, Block 3, Lot 29; RG zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 22, 2009 at which time the Board made the determination hereinafter set forth.

Michael Quinn appeared and testified.

The following documents were presented:

1. Architectural plans dated 2/3/09 (1 page) signed and sealed by Robert Hoene, Architect.



2. Survey dated July 29, 1998 signed and sealed by Robert Rahnefeld, PLS.
3. A letter in support of the application signed by four abutting property owners.
4. Survey of property for Susan C. Osgood dated 7/7/2000 by Boswell Surveying Inc.
5. A summary of comments of abutting property owners Susan and Donald Osgood (2 pages).
6. Three pictures of other two car garages in the area.
7. Three pictures of the Quinn property submitted by Mary Dolan, a neighbor across the street from the Quinn's.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson 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) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Albanese, aye; Mr. Sullivan; aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

Michael Quinn testified that the existing garage was built about 100 years ago; that he would like to add approximately 160 sq. ft. to the existing garage; that he would like to park his truck and his wife's vehicle in the garage and be able to store the lawn mower, kid's bicycles and some small stuff; that he can't add onto the garage toward the house because he wouldn't have enough room to turn his truck into the garage; that at the rear of his property his neighbor also has a garage; that the nearest house is about 30' away from the garage; that he is planning on using the existing concrete footing and floor because they are in good shape; that he has owned the house for four years; and that he has copies of the survey that he will bring back.

Public Comment:

Susan and Donald Osgood, abutting neighbors in the rear of the Quinn property, submitted a two page letter with points against the granting of the variance; stating that their survey is in conflict with the Quinn survey and that the garage on the Quinn property may be built on the property line; that the distance of the garage increases fire hazard, flooding and decreases property values; that the building will cause an undesirable change in the character of the neighborhood; that they have only seen one car garage on surrounding small lots; that the density of other small lots may be increased and cause future harm to the suburban character of the Town; that there are alternatives that may not require variances, such as placing the new garage within the setbacks of the property; that the proposed garage is more in line with a commercial property; that they are concerned about the possible loss of mature shade trees; and that their difficulty is self-created.

Mary Dolan, abutting property owner across the street from the Quinn's spoke in support of the application; stating that they are very good neighbors and keep their property immaculate; that the Dexter family built all of these houses for their family years ago; that other older homes in area have added additions; and submitted pictures of the Quinn 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.

Ms. Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Sullivan 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, accessory structure side yard and rear yard variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar garages with similar setbacks have been constructed in the area.
2. The applicant has agreed to achieve no (0%) net increase in stormwater run-off for the 160 sq. ft. addition to the garage; which shall be confirmed by the Building Department and/or the Department of Environmental Management and Engineering.
3. The requested floor area ratio, accessory structure rear yard and side yard variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
4. The benefits sought by the applicant cannot be achieved by any other means feasible for the applicant to pursue other than by obtaining variances.
5. The requested floor area ratio, accessory structure side yard and rear yard variances, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
6. The applicants purchased the property subject to Orangetown's Zoning Code (Chapter 43) and are proposing to construct a new addition, 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 variances.

DECISION: In view of the foregoing and the testimony and documents presented, the Board: RESOLVED, that the application for the requested floor area ratio, accessory structure rear yard and side yard variances are APPROVED with the SPECIFIC CONDITION that the additional 160 sq. ft. addition to the existing garage result in no net (0%) increase in stormwater runoff which will be verified by the Building Department and/or the Department of Environmental Management and Engineering; 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.

The foregoing resolution to approve the application for the requested floor area ratio, accessory structure rear and side yard variances was presented and moved by Mr. Sullivan, seconded by Ms. Castelli, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, aye; Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: April 22, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

**DISTRIBUTION:**

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR –R.O.

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

**DECISION**

**SIDE YARD VARIANCE APPROVED WITH CONDITION**

To: Armondo and Diane Correale

ZBA # 09-21

6 Mapleshade Avenue

Date: 4 /22 / 09

Pearl River, New York 10968

**FROM: ZONING BOARD OF APPEALS: Town of Orangetown**

ZBA#09-21: Application of Armondo and Diane Correale for a variance from Chapter 43, (Zoning) Section 3.12, R-15 District, Group M, Column 9 (Side Yard: 20’ required 19.9’ existing non-conforming, 9’ proposed) for the installation of an above-ground

pool to an existing single-family residence. The premises is located at 6 Mapleshade Avenue, Pearl River, New York, and are identified on the Orangetown Tax Map as Section 69.18, Block 3, Lot 1; R-15 zone.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a meeting held on Wednesday, April 22, 2009 at which time the Board made the determination hereinafter set forth.

Armondo Correale appeared and testified.

The following documents were presented:

1. Copy of survey showing the proposed pool.

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

On advice of Dennis Michaels, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Mr. Mowerson 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) (9), (10), (12) and /or (13); which does not require SEQRA environmental review. The motion was seconded by Ms. Castelli and carried as follows: Ms. Castelli, aye; Ms. Salomon, aye; Ms. Albanese, aye; Mr. Sullivan; aye; and Mr. Mowerson, aye.

Armondo Correale testified that he would like to install an above ground pool on his property; that he owns a corner lot with two front yards; that the Orangeburg Road side of his property is not safe for his children; that he would like to install the pool in this location because it is closer to the existing patio and deck; if the pool was on the other side the kids would have to cross over the driveway to get to the pool and that side of the yard is steeply sloped and would need a retaining wall before a pool could be installed; that there are old trees in that area of the yard that would need to be removed; that the proposed area for the pool is lined with 7' shrubbery that would afford his neighbor in the rear, Mr. Desmond privacy; and that his real hardship is the topography of the property and the corner lot.

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.

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

**FINDINGS OF FACT AND CONCLUSIONS:**

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

1. The requested side yard variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Similar pools

with similar yard setbacks have been constructed in the area.

2. The requested side yard variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed location is flat and there are existing 7' shrubs between the location of the proposed pool and the nearest neighbor to the rear.
3. The benefits sought by the applicant cannot be achieved by any other means feasible for the applicant to pursue other than by obtaining variances. The applicant has two front yards.
4. The requested side yard variance, although substantial, will not have an adverse effect or impact on the physical or environmental conditions of the area.
5. The applicant is proposing to construct the new pool, 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.

The foregoing resolution to approve the application for the requested side yard variance was presented and moved by Ms. Castelli, seconded by Mr. Sullivan, and carried as follows: Mr. Sullivan, aye; Ms. Albanese, aye; and Ms. Castelli, aye, Ms. Salomon, aye; and Mr. Mowerson, aye.

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

DATED: April 22, 2009

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

Deborah Arbolino

Administrative Aide

DISTRIBUTION:

APPLICANT  
ZBA MEMBERS  
SUPERVISOR  
TOWN BOARD MEMBERS  
TOWN ATTORNEY  
DEPUTY TOWN ATTORNEY  
OBZPAE  
BUILDING INSPECTOR –J.P.

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

















