



**DECISION**

**SIDE YARD VARIANCE APPROVED WITH A CONDITION.**

To: Henry Gonzalez(Murray)  
85 South Pascack Road  
Nanuet, New York

ZBA #26-01  
Date: February 4, 2026  
Permit # POOLR-8248-25

FROM: ZONING BOARD OF APPEALS: Town of Orangetown

ZBA#26-01: Application of Steven and Diana Murray, Owners, for variances from Zoning Code (Chapter 43), R-22 District, Section 3.12, Group I, Column 9(side yard: 25' required, 14' proposed), for a 38' x 24' in-ground pool at an existing single-family residence. The premises are located at 53 Marycrest Road, West Nyack, New York and identified on the Orangetown Tax Map as Section 69.06, Block 2, Lot 32 in the R-22 zoning district.

Heard by the Zoning Board of Appeals of the Town of Orangetown at a Hearing held on Wednesday, February 4, 2026 at which time the Board made the determination hereinafter set forth.

Steven Murray, Owner, and Henry Gonzalez, Pool Installer, appeared and testified.

The following documents were presented:

1. Site plans, Pool and SESC plan Murray Residence dated October 23, 2025 signed and sealed by Thomas W. Skrable, P.E., (1 page).
2. Survey dated August 26, 2025 signed and sealed by James G. Scheuermann, L.S.
3. A letter dated December 19, 2025 from Rockland County Department of Planning signed by Douglas J. Schuetz, Acting Commissioner of Planning.
4. A letter dated January 5, 2026 from Rockland County Sewer District No. 1 signed by Nicholas King, Engineer II.
5. A letter dated January 2, 2026 from Rockland County Health signed by Brandon Durant, Ph.D., Assistant Public Health Engineer.
6. A "comments attached, to be provided before meeting date" dated November 18, 2025, signed by Jake Palant.

Acting Chairperson Castelli, made a motion to open the Public Hearing which motion was seconded by Mr. Bonomolo and carried unanimously.

Steven Murray, Owner, testified that him and his wife, and their two children have lived in this home for five years; that their kids would like to have a pool; that they would like to place the pool in the back right corner of the property; that to have the pool far enough away from the house, they are too close to the property line, which is the reason for this variance; that this is the only suitable site on the property to place a pool; that this is at the highest grade on the lot, by at least four feet, from the other side of the yard; that this will not affect any drainage or easements from the Town, with the culvert which is located in the back-left corner of the property; that they are putting in cisterns to Code to handle any extra water runoff; that his neighbor also has a French drain on their side of the trees on the side of the property; that he has another French drain on the other side of his yard; that they go back towards the back of the property, and run down through the back left corner into the culvert; that Marycrest Road comes to a circle at the bottom of a hill; that there are seven houses on his Street, and all seven houses drain towards the back of the property over to the Town culvert; that the pools proposed location is in the top right of the back corner of the property, and will not affect any of the drainage, and will flow perfectly; that if the pool were placed in an alternate location, it would be below the level of the culvert; that this would mean that the Town could not get any machinery back there, as they would be blocking the easement; that he would also like to keep the deck and the pool separated enough, so that the children cannot jump off the deck into the pool, as a safety precaution; that he would also like to have a deep end in the pool, so that the children can jump into the pool safely; that the heater filter, which will be located up towards the house, will be approximately thirty-eight feet away from the property line; that the trees near the pool are shared between him and his neighbor; that there are around nine feet fall trees, and they grow around two feet a year; that there is going to be a pavilion, which will be made of four posts and a roof, more like a shade hut; that this will be five feet from the property line, and will meet all of the Town Codes; that the pool is located approximately eight feet from the house; that they will be fencing in the entire property, and the fence company will ensure that all of the fence is Code compliant; that no neighbors are in opposition of this project, and are all looking forward to coming over when it is completed;

that there are only six houses on his side of the Street; that there is only vehicles in and out for these six houses, people are not just driving by there; that they have already made application to the Rockland County Department of Health, in reference to the Mosquito Code.

Mr. Valentine asked how the Applicant will be addressing any potential for water runoff; he also asked if there were to be any other compliant location that the pool could be placed in; he also asked what type of fencing will be installed to make this Code compliant; he asked if there are any neighbors that has any objection to the pool; he stated that he printed out an aerial map of Marycrest Road; and that it is fair to say that the vast majority of the houses in that area have a pool and some are in the side yard similarly situated.

Mr. DeRobertis asked what the pavilion listed will consist of, and how far the pool is from the house.

Acting Chairperson Castelli asked if there is a shed located on the property; she also asked how long they have lived in the home, and how many people reside in the home.

On advice of Denise Sullivan, Deputy Town Attorney, counsel to the Zoning Board of Appeals, Acting Chairperson Castelli moved for a Board determination that the foregoing application is exempt from the State Environmental Quality Review Act (SEQRA), pursuant to SEQRA Regulations §617.5 (c) (1), (2), (11),(12),(16) and/or (17); which does not require SEQRA environmental review. The motion was seconded by Mr. Valentine and carried as follows: Acting Chairperson Castelli, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Mr. DeRobertis, aye; and Mr. Kramer, aye. Chairman Bosco was absent.

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.

Acting Chairperson Castelli made a motion to close the Public Hearing which motion was seconded by Mr. Bonomolo 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 exist in the neighborhood.
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. Similar pools exist 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.

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4. The requested side yard variance although substantial, and affords benefits to the applicant that are not outweighed by the detriment, if any, to the health, safety and welfare of the surrounding neighborhood or nearby community. Similar pools exist 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 improvement, 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; with the Specific Conditions (1) Application is to be made to the RCDOH for review of the storm water management system for compliance with the County Mosquito Code; 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.

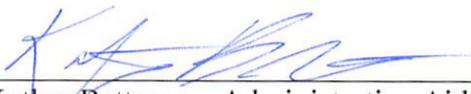
The foregoing resolution to approve the application for the requested **side yard** variance is APPROVED; and FURTHER RESOLVED, with the Specific Conditions (1) Application is to be made to the RCDOH for review of the storm water management system for compliance with the County Mosquito Code; was presented and moved by **Acting Chairperson Castelli, seconded by Mr. Valentine and carried as follows: Acting Chairperson Castelli, aye; Mr. Bonomolo, aye; Mr. Valentine, aye; Mr. DeRobertis, aye; and Mr. Kramer, aye. Chairman Bosco was absent.**

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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: February 4, 2026

ZONING BOARD OF APPEALS  
TOWN OF ORANGETOWN

By:   
Katlyn Bettmann, Administrative Aide

DISTRIBUTION:

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

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

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