

TOWN OF EDEN
ZONING BOARD OF APPEALS
2795 EAST CHURCH ST, EDEN, NY 14057

PUBLIC HEARING DATE: April 19, 2018

BOARD MEMBERS PRESENT: Kristin Kent, Chair
Phil Muck
Curtis Neureuter
Joseph Winiecki
Drew Reidel
Doug Schaeu
Candice Pineau

APPLICANT PRESENT: Mr Paul Osinski

OTHERS PRESENT: Gary Sam – Town Board Member
Jesse Baker – Code Enforcement
Officer

RESIDENTS: Lillian Wierzba, Bonny Mombrea, Ronald Wierzba, Penny Grinell, Susan Pratt, Paul Osinski, Robert & Dorothy Sluttenlacher, Don Preischel, Mr. & Mrs. Michael Demler

RE: **Appeal No. 2018-4 (Osinski)**
4146 Schintzius Road
Eden, NY

Ms. Kent called the second hearing to order at 7:20 p.m.
Ms. Kent then read the following Legal Notice published in the “The Sun”:

Osinski: Application for variances at 4146 Schintzius Road, under the Bulk Regulations in Code section 225-23, to allow (1) construction of a new garage (side lot line violation), (2) addition to an existing garage (side lot line violation) and (3) waiver of the total lot coverage rule for each project above.

Ms. Kent stated that our secretary, Ms. Diane Herzog reviewed the Certified Mailings and they are in substantial compliance with our Code requirements. Ms. Kent then explained the order of hearing and appeal process. If the applicant doesn't like the decision of this board he can appeal to New York State Supreme Court; the decision of this board will be filed with the Town Clerk.

Ms. Kent then asked the applicant to give this board the background the proposed new garage and the addition to the existing garage. She noted each proposed garage would be too close to lot lines, per the Code, and would also exceed the lot coverage rules.

Mr. Osinski replied that he would like a little more storage for his things in the new garage so they are not lying around the yard to get ruined. As far as the new garage addition on the side of the house he would like to enclose the pool filter and heater.

The board asked Mr. Osinski the following: *(his response in Italics)*

- **When you bought the property did it already have the pool and the paved driveway, in other words it already was over the lot coverage limit?** *Yes.*
- **Who big is your lot?** *125 x 440 = 1.2 acres.*
- **The addition is a shed roof on the side of the garage?** *Yes.*
- **Where are the pool filter and heater currently?** *On the side of the garage, exposed.*
- **Could a structure to house them be somewhere else that would not be so close to the lot line?** *Yes, if I dig up all the lines and move them and spend about \$20,000.*
- **So, they are connected to the plumbing to your pool?** *Yes.*
- **How long ago did you buy your property?** *13 years ago.*
- **Did the prior owner installed the pool?** *Yes.* [The prior owner was at the hearing and confirmed that she installed the pool 33 years ago.]
- **Jesse Baker, Code Enforcement Officer, was asked to confirm the side lot setback requirement for this district:** *35' is the minimum in the Agricultural District for the side setback.*
- **The new garage is marked to be about 15' from the property line; the Code says 35' in the Ag District. Is there any reason, and I understand your leach field is right in the middle of your yard but is there any reason the new garage can't be located farther back on the property?** *Yes it could, but it would be about 200' from my house. It would be more ideal up closer to the house but I could make that work.*

Ms. Kent then reviewed the requirements for a variance of the side setback:

- **Would the two garages produce any undesirable change to the character of your neighborhood or be a detriment to your next-door neighbors?** *No, I don't believe so.*
- **Can you achieve what you would like to do by any alternate method?** *Yes, I probably could; there are different ways to do it. I just want to make it look as nice as I can.*
- **What's behind the attached garage?** *It's a concrete porch.*
- **Is it going to be an enclosed addition for your pool equipment?** *Yes.*
- **Will the exterior materials match the house?** *Yes.*
- **What material would you use for the new garage?** *Steel siding.*
- **Do you have a drawing that accurately depicts where your leach field is?** *No, but if I move 35' from the lot line I will be in the leach field.*
- **What are the sizes of the structures you would like to build?** *The one in the side of the existing garage is 7 1/3' x 20' and the new garage in the back is 16' x 24'.*

Jesse Baker clarified that when Mr. Osinski first applied for the permit it was taller than 15 feet. The Code says that a structure that is 15' feet or less is considered an Accessory Structure (if the use is accessory to the principal use). The side setback for an Accessory Structure is only 5' from the property line. However, he wants to match the look of the new garage with the look of the house which has a steeper peak on the roof. So, matching the roof lines would make the new garage over 15' tall and that's why we are here. If he built it lower than 15' then we wouldn't have to worry about the side setback. The addition for the pool equipment would be attached to the house, so that would be part of the primary structure, and it would have to meet the 35' side setback requirement.

- **Would you be able to place the filter and heater at the rear of your garage?** *No, that is the patio for the pool.*
- **Is the reason you need a variance self-created?** *That is where the pool filter is; I did not create this. I moved the filter outside of the garage because it was not feasible to run the gas line on the outside of the garage.*
- **Would this equipment get ruined if it stays outside?** *It is designed to be outside.*

- **Do you have any room to landscape around it?** *Yes, I could.*
- **Are there any ventilation requirements for housing the filter and heater?** *No, just your basic ventilation requirements as for any gas appliance that needs to go outside.*

Ms. Kent then invited comments from the neighbors present.

Lillian Wierzba of 4158 Schintzius Road said she is opposed to the new garage. “I live to the right of the applicant. I have a beautiful view of the lake from my home and I’ve lived there 62 years. Mr. Osinski planted trees along my side of his property which obstruct my view, and now he wants to build a garage and I feel it will block my view. I just want him to build it on the other side of the yard I would have no objections to that. His property looks like hodge podge and now he wants to add more. Even if the garage was only 15’ high we would have the same restricted view of the lake.” *Mr. Osinski replied that he didn’t know that the trees he planted caused his neighbor to feel he infringed on her view. He did take into consideration the height of the trees he chose (maple trees) and they will only get to be 35’ tall when they mature. He already had cut down four huge trees that were in the back yard.*

Board questions to the applicant then continued:

- **Did you realize when you bought the property that it already exceeded the lot coverage rule?** *No, I did not know anything about this until I got denied for my permit.*
- **Is there the ability to move the new garage to the other side of the property?** *No, not really.*
- **Would there be the same benefit if you move it to the other side?** *I will still be too close to the property line, because of the leach field.*
- **Does the hand drawn leach field map represent the actual boundaries of it?** *Yes, I believe so.*
- **What is the height that you want to achieve the look that you want for the new garage? The neighbors are telling this board that even if you lower the roof it still will impede their view.** *Just over 15’, but I could shorten it and I could lower the pitch.*
- **Was there any restriction about planting trees, in your deed?** *No, I do not believe so.*
- **Have any other of your neighbors complained about your property?**
No

- **Did you speak to your neighbors by going door to door or mail your legal notice?** *I went door to door.*

1. **Ms. Kent made a motion to deny the request to build an addition to the attached garage, to house the pool equipment. [She noted that if the request is denied, then the potential lot coverage violation by it would not need to be addressed.] Seconded by Mr. Neureuter. The vote was: Ms Kent – Aye; Mr. Muck – Aye; Mr. Winiecki – Aye; Mr. Neureuter –Aye; Mr. Reidel – Nay. The motion was approved.**

The board then considered the application for the new garage further. Mr. Neureuter explained to the applicant that he is allowed to have 5010 sq. ft. of total lot coverage, but his house and property already cover 6078 sq. ft. The proposed detached garage (not including the addition to the existing garage) would equal about 6500 sq. ft. - - that is a substantial amount above what our Code allows.

Ms. Kent added that that if the new garage were placed farther back, then the board could possibly waive the lot coverage violation. But if the board denies the variance for total lot coverage to exceed the Code, the new garage would have to be turned down.

Mr. Scheu commented that the challenge is that the property is in the Agriculture district; if you were in an area zoned Residential you would be allowed 15 or 20% lot coverage for your lot. Being in the Agricultural zoning district hampers what you can do.

Mr. Osinski said that if his applications are denied he will figure something else out.

2. **Mr. Winiecki made a motion to table the application for the detached garage and its lot coverage issue until the May meeting, to give Mr. Osinski time to prepare alternatives for consideration. Seconded by Ms. Kent, all “Ayes”; the motion to table was approved. Ms. Kent – Aye; Mr. Neureuter –Aye; Mr. Muck –Aye; Mr. Winiecki – Aye; Mr. Reidel – Aye.**

Respectfully submitted,
Diane Herzog
Secretary
April 19, 2018

The above minutes were reviewed and approved on _____, 2018 by
