

Telephone
(914) 277-5582

FAX
(914) 277-3790

ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



AGENDA

November 20, 2018
7:30 PM

SOMERS TOWN HOUSE MEETING ROOM

- 1. URSTADT BIDDLE
PROPERTIES, INC.**

BZ25/18
An application for an Area Variance for more than the number of pole signs allowed, located in a Neighborhood Shopping District at **325 Route 100, Somers**. The property is shown on the Town Tax Map as **Section: 17.15, Block: 1, Lot: 13**. RE: Section Schedule 170-126.

- 2. CAROL MILLER**

BZ26/18 (CARRYOVER)
An Area Variance application for a Special Exception Use Permit to construct an accessory apartment in an R-10 Residence District, as well as an application for a Special Exception Use Permit to construct an accessory apartment in the basement of an existing one family dwelling, located in an R-10 Residential District at **16 Orchard Drive, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 16.05, Block: 3, Lot: 30**. RE: Section Schedule 170-70.

3. **PAUL AND ANGELA TEDESCO** **BZ27/18**
An application for an Area Variance on the height of a portion of a property line fence, located in an R-80 Residential District at **10 Windsor Road, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 15.07, Block: 1, Lot: 1.1**. RE: Section Schedule 170-49.

4. **KAELA CHOQUETTE AND DAVID POTTER** **BZ24/18 (CARRYOVER)**
An application for a Special Exception Use Permit to construct an accessory apartment on the 2nd floor of a barn, as well as an Area Variance because the barn is being constructed after 1992, located in an R-80 Residential District at **6 Annarock Drive, Somers**. The property is shown on the Town Tax Map as **Section: 28.06, Block: 1, Lot: 5**. RE: Section Schedule 170-70.

5. **KAELA CHOQUETTE AND DAVID POTTER** **BZ28/18**
An application for a Special Exception Use Permit to allow for four additional horses above the two that are permitted for a total of six, located in an R-80 Residential District at **6 Annarock Drive, Somers**. The property is shown on the Town Tax Map as **Section: 28.06, Block: 1, Lot: 5**. RE: Section Schedule 170-69-A.

6. **ANTHONY & CATHERINE PORCO** **BZ01/18 (CARRYOVER)**
An application for an interpretation under the Town Code of the Town of Somers pertaining to a nonconforming commercial use in a single family, residential district located in an R-80 Residence District at **1 Route 6, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 4.18, Block: 1, Lot: 1**. RE: Section Schedule 170-112.

4. **OTHER BUSINESS** Approval of October 16, 2018 Meeting Minutes.



ZONING BOARD OF APPEALS
Town of Somers
WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589
(914) 277-5582

IN THE MATTER OF THE APPEAL
OF
Urstadt Biddle Properties

B Z NUMBER *BZ25/18*
DATE: *10/29/18*

TO THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS, N. Y.:

1. *William Biddle*
(Name of appellant)

whose post office address is *321 Railroad Ave., Greenwich, CT 06830*
(Post office address)

through
(Name of attorney or representative if any)

whose post office address is
(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of *Architectural Review*
Board made on *October 25, 2018*
(Name of officer)
(Officer held)

which ruling was filed on and notice of such ruling was
first received by appellant on; such ruling

(Give summary of ruling)
*An application for an Area Variance
for more than the number of signs
allowed in a neighbor shopping
district*

3. The property which is the subject of the appeal is located at or known as *325 Route 108*
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: *17.15*, Block: *1* Lot: *13*

The interest of the appellant is that of *owner*
(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) to obtain
variance, permit or special permit. (Strike out wording not applicable.)

(OVER)

5.

(Fill out (a) or (b) or both if applicabl.)

(a) The property which is the subject of the appeal is located at or known as.....

325 Route 100

(b) A variance, permit or special permit is sought because of practical difficulties or unnecessary hardship to the property as indicated below:

A request for additional pole signs

and such may be granted pursuant to 170-126

(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

Both applicant and owner must sign if they are different persons.

I Hereby Dispose And Say That All The Above Statements And The Statements Contained In The Papers Submitted Herewith Are True.

SWORN TO ME BEFORE THIS 29th DAY October 20 2018

Isabel Rimmer NOTARY SIGNATURE

Wily L. Biddle OWNER SIGNATURE

Isabel Rimmer NOTARY SIGNATURE

Wily L. Biddle APPLICANT SIGNATURE

ISABEL RIMMER NOTARY PUBLIC OF CONNECTICUT My Commission Expires 4/30/2020



ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589

(914) 277-5582

Amended Application

B Z NUMBER BZ 26/18

DATE: 10/26/18

IN THE MATTER OF THE APPEAL
OF

Carol Miller

TO THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS, N. Y.:

1. Carol Miller

(Name of appellant)

whose post office address is 16 Orchard Drive, Yorktown Heights, NY 10598

(Post office address)

through E. Fred Citarella

(Name of attorney or representative if any)

whose post office address is 127 Reilly Road, Lagrangeville, NY 12540

(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of

(Name of officer)

made on

(Office held)

which ruling was filed on and notice of such ruling was first received by appellant on; such ruling

(Give summary of ruling)

An Area Variance for a Special Exception Use Permit to construct an accessory apartment in an R-10 Residence District. An application for a Special Exception Use Permit to construct an accessory apartment in the basement of an existing one family dwelling.

3. The property which is the subject of the appeal is located at or known as

16 Orchard Drive

(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 16.05, Block: 3, Lot: 30

The interest of the appellant is that of owner

(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) to obtain variance, permit or special permit. (Strike out wording not applicable.)

(OVER)

5.

(Fill out (a) or (b) or both if applicable)

(a) The property which is the subject of the appeal is located at or known as

116 Orchard Drive

(b) A variance, permit or special permit is sought because of practical difficulties or unnecessary hardship to the property as indicated below:

Requesting an Area Variance to have a Special Exception Use Permit to construct an accessory apartment in an R-10 Residential Zone.

and such may be granted pursuant to... 170 - 70

(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

Both applicant and owner must sign if they are different persons.

I Hereby Dispose And Say That All The Above Statements And The Statements Contained In The Papers Submitted Herewith Are True.

SWORN TO ME BEFORE THIS 26th DAY October 20 18

Denise Schirmer

NOTARY SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6298242
Qualified in Dutchess County
Commission Expires March 10, 2022

OWNER SIGNATURE

NOTARY SIGNATURE

APPLICANT SIGNATURE



ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589

(914) 277-5582

IN THE MATTER OF THE APPEAL
OF

Paul and Angela Tedesco

B Z NUMBER

BZ27/18

DATE:

10/18/18

TO THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS, N. Y.:

1. Paul Tedesco

(Name of appellant)

whose post office address is 10 Windsor Road, Yorktown Heights, NY 10598

(Post office address)

through

(Name of attorney or representative if any)

whose post office address is

(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of Thomas Tooma

(Name of officer)

Building Inspector

made on

(Office held)

which ruling was filed on October 18, 2018 and notice of such ruling was first received by appellant on

(Give summary of ruling)

An application for an Area Variance on the height of a portion of a property line fence. The property is located in an R-80 Residence District.

3. The property which is the subject of the appeal is located at or known as

10 Windsor Road

(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 15.07, Block: 1, Lot: 1.1

The interest of the appellant is that of owner

(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) to obtain variance, permit or special permit. (Strike out wording not applicable.)

(OVER)

5.

(Fill out (a) or (b) or both if applicable)

(a) The property which is the subject of the appeal is located at or known as

10 Windsor Road

(b) A variance, permit or special permit is sought because of practical difficulties or unnecessary hardship to the property as indicated below:

The applicant's backyard faces Route 6. Fencing already exists along that property line and will be replaced with white vinyl fencing. The applicant needs a variance for it to be 8 feet in the center in an effort to block the noise, view and lights on Route 6.

and such may be granted pursuant to 170-49

(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

Both applicant and owner must sign if they are different persons.

I Hereby Dispose And Say That All The Above Statements And The Statements Contained In The Papers Submitted Herewith Are True.

SWORN TO ME BEFORE THIS 18th DAY October 20 18

Denise Schirmer
NOTARY SIGNATURE

Paul Tedesco
OWNER SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
NOTARY SIGNATURE
Qualified in Putnam County
Commission Expires March 10, 2022

APPLICANT SIGNATURE



ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589

(914) 277-5582

IN THE MATTER OF THE APPEAL
OF
Kaela Choquette and
David Potter

Amended Application
B Z NUMBER BZ24/18
DATE: 9/12/18

TO THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS, N. Y.:

1. Kaela Choquette
(Name of appellant)

whose post office address is 6 Annarock Drive, Somers, NY 10589
(Post office address)

through Justin Liegey Construction, LLC
(Name of attorney or representative if any)

whose post office address is PO Box 444, Cross River, NY 10518
(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of Efrera Citarella
(Name of officer)

Building Inspector made on July 26, 2018
(Office held)

which ruling was filed on and notice of such ruling was
first received by appellant on; such ruling

(Give summary of ruling)
An application for a Special Exception
Use Permit to construct an accessory
apartment on the 2nd floor of a barn,
as well as an Area Variance because
the barn is being constructed after
April 1, 1992. The property is in an R-80
Residential District.

3. The property which is the subject of the appeal is located at or known as
6 Annarock Drive
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 28.06, Block: 1, Lot: 5

The interest of the appellant is that of owner
(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) to obtain
variance, permit or special permit. (Strike out wording not applicable.)

(OVER)

5.

(Fill out (a) or (b) or both if applicable)

(a) The property which is the subject of the appeal is located at or known as

6 Annarock Drive

(b) A variance, permit or special permit is sought because of practical difficulties or unnecessary hardship to the property as indicated below:

A variance is needed because the barn housing the accessory apartment on the 2nd floor is being constructed after April 1, 1992. As required a Special Exception Use Permit is needed for an accessory apartment.

and such may be granted pursuant to 170-70

(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

Both applicant and owner must sign if they are different persons.

I Hereby Dispose And Say That All The Above Statements And The Statements Contained In The Papers Submitted Herewith Are True.

SWORN TO ME BEFORE THIS 12th DAY September 20 18

Denise Schirmer
NOTARY SIGNATURE

[Signature]
OWNER SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6298242
Qualified in Dutchess County
Commission Expires March 10, 2022

[Signature]
APPLICANT SIGNATURE



ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589

(914) 277-5582

IN THE MATTER OF THE APPEAL
OF

Kaela Choquette and
David Potter

B Z NUMBER BZ28/18
DATE: 10/24/18

TO THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS, N. Y.:

1. Kaela Choquette

(Name of appellant)

whose post office address is 6 Annarock Drive, Somers, NY 10589

(Post office address)

through

(Name of attorney or representative if any)

whose post office address is

(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of

(Name of officer)

....., made on

(Office held)

which ruling was filed on, and notice of such ruling was
first received by appellant on

.....; such ruling

(Give summary of ruling)

An application for a Special Exception
Use Permit to allow for four additional
horses above the two that are permitted
for a total of six. The property is in an
R-80 Residential District

3. The property which is the subject of the appeal is located at or known as

6 Annarock Drive

(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 28.06, Block: 1 Lot: 5

The interest of the appellant is that of owner

(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) to obtain
variance, permit or special permit. (Strike out wording not applicable.)

(OVER)

5.

(Fill out (a) or (b) or both if applicable)

(a) The property which is the subject of the appeal is located at or known as

6 Amherst Drive

(b) A variance, permit or special permit is sought because of practical difficulties or unnecessary hardship to the property as indicated below:

The Code only allows for 2 horses and the applicant would like to be able to have a total of 6.

and such may be granted pursuant to 170-11-3-d and 170-69-A

(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

Both applicant and owner must sign if they are different persons.

I Hereby Dispose And Say That All The Above Statements And The Statements Contained In The Papers Submitted Herewith Are True.

SWORN TO ME BEFORE THIS 24th DAY October 20 18

[Signature of Denise Schirmer]

[Signature of Owner]

NOTARY SIGNATURE DENISE SCHIRMER Notary Public State of New York No. 01SC6294242 Qualified in Dutchess County Commission Expires March 10, 20 22

OWNER SIGNATURE

NOTARY SIGNATURE

APPLICANT SIGNATURE



ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589

(914) 277-5582

IN THE MATTER OF THE APPEAL
OF
Anthony + Catherine Porco

B Z NUMBER *BZ01/18*
DATE: *12/18/17*

TO THE ZONING BOARD OF APPEALS
OF THE TOWN OF SOMERS, N. Y.:

1. *Anthony + Catherine Porco*
(Name of appellant)
whose post office address is *19 Brianna Lane, Yorktown Heights, NY 10598*
(Post office address)
through *Michael Caruso*
(Name of attorney or representative if any)
whose post office address is *122 Old Route 6, Carmel, NY 10512*
(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of *Efren Citarella*
(Name of officer)
Zoning Officer, made on *October 13, 2017*
(Office held)

which ruling was filed on *October 13, 2017*, and notice of such ruling was
first received by appellant on *October 18, 2017*; such ruling
finds no Code Violations presented by Whispering Pine's business operations.
(Give summary of ruling)

The issue is whether an adjacent property owner of my client and related business (Thomas Kuck and Whispering Pine Landscapes Supply Co.), which is located within a residential zoning district, are engaging in legally permissible activities (e.g. screening, crushing, and tub grinding rock and materials, and jack hammering), and whether the nature and development of this business on the Kuck property constitutes a preexisting, legal nonconforming use.

3. The property which is the subject of the appeal is located at or known as *1 Windsor Road, Yorktown Heights, NY 10598*
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: *4.18*, Block: *1*, Lot: *14*

The interest of the appellant is that of *owner*
(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) ~~to obtain variance, permit or special permit.~~ (Strike out wording not applicable.)

5.

(Fill out (a) or (b) or Both if applicable)

(a) The property which is the subject of the appeal is located at or known as

1 Windsor Road, Yaketown Heights 10598

(b) A variance, permit or special permit is sought because of practical difficulties or unnecessary hardship to the property as indicated below:

and such may be granted pursuant to Code Section 170-112

(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

Both applicant and owner must sign if they are different persons.

I Hereby Dispose And Say That All The Above Statements And The Statements Contained In The Papers Submitted Herewith Are True.

SWORN TO ME BEFORE THIS 8th DAY December 2017

NOTARY SIGNATURE

OWNER SIGNATURE

Margaret Ferreri Buechel

NOTARY SIGNATURE
MARGARET FERRERI BUECHEL
Notary Public, State of New York
No. 4919619

[Signature]

APPLICANT SIGNATURE
as attorney for Anthony + Catharine Paros

Qualified in Dutchess County
Commission Expires February 8, 2018

(914)-277-5582
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Facsimile

ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



Meeting Minutes
October 16, 2018

The members present were: Chairman Cannistra, Mr. Carpaneto, Ms. D'Ippolito, Mr. Guyot, Mr. Harden, Mr. Newman and Mr. Santaroni.

Building Inspector Tom Tooma and interested residents were also present.

Chairman Cannistra opened the meeting at 7:30 p.m. with the Pledge of Allegiance.

APPLICANTS

Chairman Cannistra announced that the application for Carol Miller, item number 2 on the agenda has been adjourned until the November 20, 2018 meeting at the request of the applicant. In addition, the application for Anthony and Catherine Porco, item number 4 on the agenda has also been adjourned until the November meeting. Since the decision of the NY Supreme Court was just received last week, delaying the hearing will give everyone ample time to prepare themselves since the Stay was issued.

WILDERNESS CROSSING, LLC – BZ22/18 – 17.15-1-15.12

An application for an Area Variance for signs which exceed the maximum height, as well as an Area Variance for more than the number of signs allowed for a retail business, located in an MFR-D District at 266 Route 202, Somers. The property is shown on the Town Tax Map as Section: 17.15, Block: 1, Lot: 15.12. RE: Section Schedule 170-126.

Lou DiLeo of Studio Rai Architects addressed the Board. At the Architectural Review Board meeting on September 27, 2018 owners of DeCicco & Sons Chris and John DeCicco proposed their standard signage package for their new business. Five signs are being proposed for the building, and one free standing sign located at the Route 202 entrance.

The three building signs are identical to each other and will be placed on the front, back and side (facing the Towne Centre at Somers) of the building that will read “DeCicco & Sons” in white pin letters and the “&” is placed inside a shopping bag that is olive green. The height of the signs is 23.96”, but the shopping bag in the middle is 35.14” and the length is 226.72”. Two additional signs that read “DeCicco” in black letters will be installed above the clock in the clock tower, one facing Route 202, the other facing the rear. A free-standing sign located at the Route 202 entrance reads “DeCicco & Sons” in black letters on a light grey background.

A memo in support of the application was received by the Architectural Review Board. Although they did not object to the design and colors of the signs proposed, they couldn’t be approved as the DeCicco & Sons signs are 11.14” higher in the center where the shopping bag part of their logo is. In addition, the applicant is only permitted to have two signs as per the Code and the proposal is for a total of six.

Mr. Guyot thought that there were too many signs and it would be a distraction. Mr. Cannistra felt that since the building is so large, it could handle the additional signs being proposed.

Mr. Guyot made a motion for a Type II action. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows...

POLL OF THE BOARD

Mr. Carpaneto	Aye
Ms. D’Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

Mr. Carpaneto made a motion to grant the height variance, as well as a variance for four additional signs. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows...

POLL OF THE BOARD

Mr. Carpaneto	Aye
Ms. D’Ippolito	Aye
Mr. Guyot	Nay
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye

The Area Variances were approved.

KAELA CHOQUETTE AND DAVID POTTER – BZ24/18 – 28.06-1-5

An application for a Special Exception Use Permit to construct an accessory apartment on the 2nd floor of a barn, as well as an Area Variance because the barn is being constructed after April 1, 1992, located in an R-80 Residential District at 6 Annarock Drive, Somers. The property is shown on the Town Tax Map as Section: 28.06, Block: 1, Lot: 5. RE: Section Schedule 170-70.

New owner of 6 Annarock Drive Kaela Choquette addressed the Board. She would like permission to put an accessory apartment on the 2nd floor of a barn that is yet to be built. Her mother would live in the apartment and the barn cannot be seen from the road. Her grandfather is the co-owner of the property and will live in the main house. Ms. Choquette knows of many apartments in the immediate area that are above barns. She lived in one for about 4 ½ years while her horses were housed in the barn below the apartment. She has received Westchester County Board of Health approval for the accessory apartment. The property is just under 9 acres. Ms. Choquette is a veterinary physician who travels to people's homes and barns. She also spends time doing surgery on horses at a local vet's office. At the request of the Chairman, she would be willing to a condition of only family members and workers living in the accessory apartment, as well as not accepting rent.

Michael Caruso, attorney for Barlow and Patricia Humphreys, as well as George Azar addressed the Board. His Opposition Memorandum of Law, which was delivered this afternoon was reviewed and discussed. He was reminded that in the future documentations for the Board must be submitted to the Secretary no later than 10 days prior to the meeting. Mr. Caruso argued the following points: The Zoning Board lacks jurisdiction to decide the application; the application seeks prohibited mixed uses; a Use Variance is more appropriate than an Area Variance in considering relief from Code §170-70(B), and the applicants cannot meet the legal standard for a special exception use. Pictures were shared as well.

Mr. Newman stated the points made were not related to the specifics of the application.

Chairman Cannistra reminded Mr. Caruso that the Building Department would have sent the applicant to the Planning Board if necessary and the Zoning Board of Appeals does have jurisdiction of the Special Exception Use Permit being requested. With regard to the Code stating that "No building used for human habitation shall be used to house domestic animals", if it were taken literally than no homes in the Town of Somers could have dogs or cats. He is also aware of numerous barns that have an apartment on the 2nd floor.

Town Attorney Gerry Reilly said the application is a permitted use in this District and an Area Variance can be given. In addition, it is the obligation of the Zoning Board of Appeals to interpret the Code liberally.

Tim Allen of Bibbo Associates addressed the Board. He is representing the applicant and it is not a Planning Board issue. The barn has been signed off by the Planning and Engineering Department and there are no environmental concerns.

Mr. Guyot asked what arrangements have been made if any in case the septic fails. Mr. Allen said there is room to expand the existing septic and a new septic system will be added to accommodate the accessory apartment.

George Azar of 265 Route 100 addressed the Board with a topography map model that he made. Although he is not a professional, Mr. Azar is concerned about the punchbowl effect that exists on his property and it being made worse by run off from the paddock for the horses.

Chairman Cannistra reminded everyone that being allowed to build the barn is as of right.

Larry Fable of 19 Annarock Drive addressed the Board. He built his house in 1975 and wants the area to remain residential, not business. The Chairman responded that running a business is not allowed and if done a violation would be issued.

Barlow Humphreys of 4 Annarock Drive addressed the Board. He noted that it was interesting to hear what can and can't be spoken about throughout the meeting. In his opinion uses proposed for the property will result in a hazard to human health. Having an apartment above a horse stable will lead directly to upper respiratory infection disease. In addition, he feels that as it is a scientific fact that there are no less than ten easily communicable diseases the can pass from horses directly to human. Mr. Humphreys went on to say that over half the residents in the neighborhood are retired and if the application is approved it will result in a loss of home equity, decrease property values, destruct their neighborhood and will not allow them to age in place. He is also concerned about the steep slopes that have run off with high velocity.

Chairman Cannistra reminded everyone that the Zoning Board of Appeals cannot change the code and have to consider anything that is applicable to the accessory apartment. Mr. Humphreys replied by saying the Code is out of date.

Dominic Veltri of 3 Annarock Drive addressed the Board. He sent a letter to the Board and referenced Code Section 170-70 (b) that says an accessory apartment cannot be placed in a structure built after April 1, 1992. Chairman Cannistra reminded him that the Building Permit to construct the barn has not yet been issued, however the precedence has been set to allow accessory apartments in structures built after that date. Mr. Veltri went on to talk about Section 170-70 (h) which addresses water supply and sewage for accessory apartments. Mr. Allen responded that the applicant has received

Westchester County Department of Health approval for the accessory apartment and they are also putting in a new septic system for it. In his opinion, Mr. Veltri thinks allowing the apartment goes against Section 170-70 (o) and also talked about Section 170-106, standards for determination. In his opinion a logical step has been missed. The apartment will have an adverse impact on his neighborhood and there are environmental impacts despite what the Planning and Engineering Department has said. Mr. Veltri respectfully disagrees with Town Attorney Reilly with regard to Section 170-69-B as in his opinion it doesn't mean that people can't live with cats and dogs. He also doesn't believe it is a Type II Action.

Mr. Caruso feels that the applicant should have gotten a waiver of site plan approval by the Planning Board since it is required in Code Section 170-60.

Mr. Reilly said the Building Inspector allowed the Zoning Board to look at the application which is defined as a Type II Action. In addition, the Board cannot address something that is not before it.

Chairman Cannistra stated that in all the years he has been on the Zoning Board of Appeals, a site plan approval has never been required for a Special Exception Use Permit for an accessory apartment. Mr. Allen agrees.

Steve Miller of 22 Annarock Drive addressed the Board. He has been a resident for 25 years and feels that if the application is approved it will significantly change the neighborhood and they should be required to go to the Planning Board for approval. Mr. Miller urged the Board to walk the site and the neighborhood to see the true character of what is there. Chairman Cannistra responded that only the Building Inspector can send an applicant to the Planning Board.

Mr. Guyot reminded the audience that some of the houses in the neighborhood are in a flood zone, which has already decreased the value of the property.

Jane Fusco of 1 Annarock Drive addressed the Board and asked that they please consider all that they heard this evening and read all the Codes referenced.

Karen Wagner of 8 Wellington Lane addressed the Board and reference Code Section 170-110-A. She would like a written determination about the plans from the former Building Inspector. Chairman Cannistra stated that he doesn't have to justify his decisions in writing and it is also not practical or reasonable to do so. If someone disagrees with a decision made they can file an application to the Zoning Board. The Building Inspector only had to refer out the Special Exception Use Permit for the accessory apartment. Town Attorney Reilly stated that public notices don't have to be sent to neighbors when a Building Permit is issued. If someone finds something wrong they can file an application with the Zoning Board.

Co-owner of 6 Annarock Drive Dave Potter addressed the Board. He and his granddaughter plan to put about a half million dollars of improvements to the house and

property which will increase the value of his property in excess of \$400,000 so he is not sure why folks are concerned about the value of their property going down. With regard to the health issues, Westchester County has the largest population of horses in the country and if someone gets sick from a horse they are keeping the barn closed up and shut which is not the right thing to do. The windows need to be open so air can circulate. Diseases related to horses happen in Europe, South American and Australia, not the United States. There has only been one incident recorded were someone got hepatitis from a rat and that was in Hong Kong. Mr. Potter and his granddaughter Ms. Choquette consult people on managing barns and would never allow their barn to be anything but pristine. He encouraged the audience to go visit Heritage Farm in Somers, one could eat off their floors and that is how their barn will be. Manure management is a science and 75 to 80% is in the stalls, not in the paddocks. Regardless of wherever it is it gets picked up every day, stored in steel containers and removed from the property every other week. 75 to 80% of the meadows are covered with grass all year long and they rotate the horses so it doesn't get muddy. The barn and the apartment will not change the topography or create swales, slopes or drainage issues. Most of the concerns expressed this evening included inaccurate information. They have four horses that are retired and are not able to be ridden. The horses basically poop and eat, they are old, don't wake up easily and certainly don't wander all night and make noise. Dogs are noisier than horses. Large trucks and trailers will not be commuting to their property. Box trucks will deliver their hay and remove the manure. Mr. Potter told the Board that he is selling his house in New Hampshire which is within walking distance of four horse barns and his real estate agent said to include that information in the listing as it is an enticement to a buyer.

Kathie Pacella of 10 Highview Terrace addressed the Board. She lived in the Bronx Zoo for 20 years and that had an acre for 1 horse. In her opinion it is unhealthy for the applicant to have 4 horses and they don't have enough property for that many horses.

Barlow Humphreys of 4 Annarock Drive addressed the Board. Manure management has proven to be a serious issue.

Mr. Guyot asked Mr. Potter what he does for a living. Mr. Potter responded that he is retired, but was an executive at Xerox for 35 years.

Tom Bistany of 10 Annarock Drive addressed the Board. He has lived in his house for two years. In his opinion he thinks it is the applicant's intention to run a business and the accessory apartment will accompany that business. Mr. Bistany also thinks the character of the neighborhood will change.

Applicant Ms. Choquette addressed the Board. She wanted the Board to know that there is currently an accessory apartment on Annarock Drive. She will not be running a business from the property and the only visible change will be the fenced in front yard. There will not be a riding ring. They bought the property to be there forever home and did a substantial amount of research with the Town before purchasing it. They were always up front about their plans. The house had been abandoned for 13 years and

broken in to. She thought that the neighbors would welcome them into the neighborhood and be happy with what they planned to do. Clearly that is not the case.

Patricia Humphreys of 4 Annarock Drive addressed the Board. In her opinion, the plans for this property will jeopardize their investment and lifestyle. It is not a horse area and was originally a gravel pit. She doesn't believe people should live above a barn. It is a poor way of living, as well as mentally and physically unhealthy. Mrs. Humphreys went on to say that it is not a valid or feasible place for anyone to live. Code Section 170-69-2 says that no building used for human habitation shall be used to house domestic animals. In her opinion based on this alone the Board should not allow the accessory apartment. The applicant has no hardship. They should put the apartment in the basement of the house or garage. The house is over 3,000 square feet, the basement is huge, and the garage can hold six vehicles. Code Section 170-11-3-d talks about usable acres which they don't have. Supposedly they are only going to have 4 horses, that could change if they don't have enough usable acreage for 4 horses. Mrs. Humphreys also feels that putting horses in the front yard doesn't give them protection.

Mike Pacella of 10 Highview Terrace addressed the Board. He was a police officer for 47 years, 20 in New York City and 27 in Somers. It is time to "nip it in the bud". Everyone is getting off track. The application is for an apartment and if the Board allows them to have it they are going to start running a business. Mr. Pacella wants to keep the community beautiful.

Chairman Cannistra confirmed with Mr. Allen that septic and well permits have been issued by the Westchester County Department of Health for the accessory apartment.

Ms. Choquette told the Board that they could not put an apartment in the basement because the steel beams would bring the height too low.

Mr. Santaroni said he is not ready to decide and would like to visit the property.

Town Attorney Reilly said this is a Type II Action. The conditions have to be related to the land, not the people. Regardless of whether the Special Exception Use Permit and Area Variance are granted, all of the other issues have to go before the Building Inspector and Town Engineer. If the applicant is granted their request it will be pending the issuance of a Building Permit for the barn.

Mr. Allen confirmed that perk hole tests have been done for the septic for the accessory apartment. The Board does have the right to tell the applicant the apartment can only be used for family and workers, and may not collect rent.

Mr. Carpaneto too is not ready to decide and would like arrangements for a site visit.

Mr. Newman asked Mr. Reilly about the Code Section 170-69-2. Mr. Reilly responded that the Board has to make a reasonable interpretation of what it means.

Mr. Allen reminded the Board that it is common to have an accessory apartment over a barn.

Mr. Guyot would like to have an opportunity to visit the property, but is prepared to vote if that is the general consensus.

Ms. D'Ippolito feels that the public hearing should be closed this evening.

Chairman Cannistra, Mr. Guyot, Mr. Harden and Mr. Newman are prepared to vote tonight if the others are in agreeance.

Mr. Harden made a motion to close the public hearing. Ms. D'Ippolito seconded the motion.

A vote was then taken by the Board as follows...

POLL OF THE BOARD

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

The motion passed and the public hearing was closed.

Mrs. Schirmer will work with the applicant on arranging a site visit.

Chairman Cannistra adjourned the application to November 20, 2018, which will allow the Board members time to review the documents and drive through the neighborhood. Only the Board members will be part of the site visit.

Mary Theresa Benson of 13 Annarock Drive is curious as to why the application discussion is continuing if they don't end up getting a permit to built the barn. Chairman Cannistra responded that the barn is as of right.

OTHER BUSINESS:

A motion was made by the Chairman to approve the minutes of the September 11, 2018 meeting. All were in favor.

The next monthly meeting of the Zoning Board of Appeals will be held on November 20, 2018 at 7:30 p.m. There being no further business, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board

DRAFT