

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

January 15, 2019
7:30 PM

SOMERS TOWN HOUSE MEETING ROOM

- 1. JOHN AND DIANA RICE**

2019:ZB01
An application for a 6' Area Variance for a pre-existing shed that was recently added to, located in an R-80 Residential District at **21 Orchard Hill Road, Katonah**. The property is shown on the Town Tax Map as **Section: 37.10, Block: 1, Lot: 17**. RE: Section Schedule 170:A1 of the Zoning Schedule.
- 2. JANET LUPINACCI**

2019:ZB02
An application for a Special Exception Use Permit to create an accessory apartment in a detached garage; as well as an Area Variance because the accessory apartment is larger than 800 square feet, located in an R-40 Residential District at **159 Route 118, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 16.17, Block: 1, Lot: 5**. RE: Section Schedule 170-70.
- 3. OTHER BUSINESS**

Approval of November 20, 2018 and December 18, 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

John and Diana Rice

B Z NUMBER 2019-2B01

DATE: 12/12/18

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

1. Diana Rice

(Name of appellant)

whose post office address is 21 Orchard Hill Road, Katonah, NY 10536
(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 J. Toomey, Jr.
(Name of officer)

Building Inspector made on December 12, 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 6' Area Variance
for a pre-existing shed that
was added to recently in an
R-80 Residential District

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

21 Orchard Hill Road and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 37.10 Block: 1 Lot: 17

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

21 Orchard Hill Road

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

The location of the shed was pre-existing

and such may be granted pursuant to 170:91 of the Zoning Schedule

(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 December 20 18

Denise Schirmer
NOTARY SIGNATURE

D. D. Rice
OWNER SIGNATURE

NOTARY SIGNATURE
DENISE SCHIRMER
Notary Public State of New York
No. 01507258242
Richmond 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

Amended Application

B Z NUMBER 2019:2B02

DATE: 12/18/18

IN THE MATTER OF THE APPEAL
OF

Janet Lupinacci

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

1. Janet Lupinacci

(Name of appellant)

whose post office address is PO Box 265, Baldwin Place, NY 10505

(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 J. Tooma, Jr.

(Name of officer)

Building Inspector, made on December 17, 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 Exemptive Use Permit to create an accessory apartment in a detached garage as well as an Area Variance because the apartment is larger than 800 square feet in an R-40 Residence District

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

159 Route 118

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

Town Tax Map as Section: 16.17, 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

159 Route 118
.....
.....
.....

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

A special Exception Use Permit is required to have an accessory apartment and the Code only allows it to be no larger than 800 square feet therefore an Area Variance is needed

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 18th DAY December 20 18

Denise Schirmer
NOTARY SIGNATURE

James Lupanacci
OWNER SIGNATURE

NOTARY SIGNATURE
DENISE SCHIRMER
Notary Public State of New York
No. 0156298242
Qualified in Dutchess County
Commission Expires March 10, 2022

APPLICANT SIGNATURE

(914)-277-5582
Telephone
(914)-277-3790
Facsimile

ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



Meeting Minutes
November 20, 2018

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

Mr. Carpaneto was absent.

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 December 18, 2018 meeting at the request of the applicant. He asked that Mrs. Schirmer research whether or not any Special Exception Use Permits were issued for accessory apartments in an R-10 Residential District.

URSTADT BIDDLE PROPERTIES, INC. – BZ25/18 – 17.15-1-13

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.

Andy Albrecht, Vice President, as well as Director of Management and Construction for Urstadt Biddle Properties, Inc. addressed the Board. They have suffered from random and different signage through the years and have been meeting with the Architectural Review Board since last June in an effort to come up with a reasonable solution. Since his employ of almost 20 years, the building has never been fully occupied because tenants claim their clients can't locate them once in the shopping center. The building

will be painted, shutters replaced and new awnings installed. The area will be re-landscaped as well.

Four signs are being proposed. A wall sign for the building and three free standing pole signs. As per the original site plan for this building, only the new wall sign is permitted. All of the existing tenant signage will be removed, including the two existing directory wall signs. The "Town Center Professional Building" sign over the 1st floor main entrance will remain.

All three pole signs will have the names of the six tenants in black letters with the same font on white Lexan panels. The frame of each is black and all three will be internally lit. With regard to illumination, at night the white letters appear black and the black letters appear white giving it a very subtle appearance. On top of each, is a silhouette of three elephants. The sign proposed for the back of the building will have directional arrows for the 1st and 2nd floors.

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 three free standing pole signs proposed, they couldn't be approved as the applicant is requesting more signs than are allowable as per the Code.

Some members felt that all three signs were not necessary. Mr. Albrecht responded that careful thought went into not only the number of signs needed, but their placement. Without them, it is very possible that someone looking for a client in that building would end up exiting the property without locating them.

Chairman Cannistra would like to see a site plan with the exact location of each sign noted; building elevations; pictures of what the signs would look like lit at night; a photo of the proposed wall sign; and the opportunity for all members to visit the site before the December meeting.

Mahopac resident Linda Calamari addressed the Board. She doesn't see the need for all those signs.

The application is adjourned until the December meeting. Mr. Albrecht was reminded to give all submissions to Mrs. Schirmer no later than December 7th.

PAUL AND ANGELA TEDESCO – BZ27/18 – 15.07-1-1.1

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.

Mr. Tedesco addressed the Board. He owns a little over 2 acres and the back of his property faces Route 6. Recent storms have downed many trees resulting in additional noise and annoyance from lights. He would like to replace his existing fence along the

back of his property with a white vinyl fence, however at certain areas the 6' maximum height will have to be increased. There are residential homes on either side of his lot. The neighbor to the east has a fence, but their elevation is different than behind his house. A conservation easement between Mr. Tedesco's property and Route 6 exists.

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

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

Ms. D'Ippolito made a motion to grant the height variance. Mr. Santaroni seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

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

Last month, the new owner of 6 Annarock Drive Kaela Choquette, a veterinary physician who travels to people's homes and barns addressed the Board. She requested permission to put an accessory apartment on the 2nd floor of a barn that is yet to be built. She owns four retired horses. Her mother will live in the apartment and her grandfather, also the co-owner of the property will live in the main house. Westchester

County Board of Health approval has been issued for the accessory apartment. The property is just under 9 acres and the barn cannot be seen from the road. Ms. Choquette is willing to agree to a condition of only family members and workers living in the accessory apartment, as well as not accepting rent. She reminded the Board 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. Ms. Choquette and Mr. Potter 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.

After a very lengthy discussion among all in attendance a motion was made to close the public hearing on this application.

In addition to the aforementioned application, this evening a new application was brought to the Board.

KAELA CHOQUETTE AND DAVID POTTER – BZ28/18 – 28.06-1-5

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.

Attorney Don Rossi addressed the Board. He was just recently retained by the owners of the property and didn't have the opportunity to submit any information within the 10 day prior to the meeting requirement. Ms. Choquette and Mr. Potter own 6 Annarock Drive which is just under 9 acres, as well as 8 Annarock Drive which is almost 4 acres. The code could then allow for up to 11 horses on the property, which would allow them to be well removed from the road and other residents. The horses will be used solely for the occupants of the property and will have no impact on the neighborhood. Mr. Rossi encourages the Zoning Board members to put stipulations as they see necessary on any approvals.

Chairman Cannistra announced that all members of the Zoning Board conducted a site visit since the last meeting and not only walked the property, but toured the inside the house.

Mr. Rossi addressed some of the concerns that were made at the October 16th meeting. With regard to "No building used for human habitation shall be used to house domestic animals", he feels that this section of the code is not only antiquated, but inconsistent with farm practices everywhere and needs to be amended. If interpreted literally as written, no one in the Town of Somers could have dogs or cats in their homes.

Since the current application is for 6 Annarock Drive and the applicant would like to put horses on 8 Annarock Drive, a new application has to be submitted listing both properties.

Dominic Veltri of 3 Annarock Drive addressed the Board. This is the 3rd meeting regarding this property. He has heard the application being referred to as a business, a farm and a residence. Which is it? The Code does talk about domestic animals. Mr. Veltri implores the Board to read the Code, understand it and come prepared to deliberate at the next meeting.

Donna O'Connell of 5 Annarock Drive addressed the Board. She has lived in her house for 26 years and has been a full-time realtor for 22 years. In her opinion, there is not enough usable property for all the horses being proposed. They will be in the front yard which is across from her driveway, resulting in flies, dust, rats, mice, and manure odors, all of which in her opinion will devalue her property, as well as change the character of the neighborhood.

Joan States of Sherman, Connecticut addressed the Board. She is currently housing Ms. Choquette's four horses as well as two of her own on her property which is 5 acres and runs right along a main road. With regard to some of the concerns raised, the manure is managed and turned into mulch. When properties are well managed there are no concerns with manure. Extra stalls in a barn are important, especially when the weather is inclement and the stalls have to be cleaned. They also allow for an opportunity to move the horses around within the barn when they can't be outside due to weather. Ms. States went on to say that prior to living in Connecticut, she had horses on her property in Kentucky and Texas, totaling 50 years. She always only heard kind words from her neighbors about her horses and is very sad to hear the comments being shared this evening.

Patricia Humphreys of 4 Annarock Drive addressed the Board. She asked if the public present at the meeting next month will be able to speak and the response was yes.

Town Attorney Gerry Reilly stated that he thought the public hearing on the 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 was closed. Chairman Cannistra indicated that by default it will be re-opened.

The application is adjourned until the December meeting. Mr. Rossi was reminded that all submissions have to be given to Mrs. Schirmer no later than November 30th.

ANTHONY AND CATHERINE PORCO – BZ01/18 – 4.18-1-1 (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 Residential 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.

Attorney Michael Caruso addressed the Board. He reviewed previously submitted materials with regard to the jurisdiction issue and violations existing. As part of the

presentation he reviewed the history of the property including what was on Town record, which in his opinion establishes a pattern by both the Planning and Zoning Boards of non-compliance activities of the code. The Settlement Agreement of March 7, 2014 between the owner of the property and the Town of Somers attempts to fashion a site plan, however, none of the neighboring properties were made aware of the conditions. Mr. Caruso shared aerial photos of the property from 2007, 2009, 2014, 2015 and 2016, clearly showing the increase of activity on the property over time.

Anthony Porco addressed the Board. He shared a video of jackhammering so the Board could hear the noise and see the stone dust accumulating in his yard. The noise makes his house and furniture vibrate, the dust is going into his HVAC system and he is extremely concerned over what they are breathing in. He doesn't understand why site plan or environmental reviews weren't done. In his opinion the activities need to be regulated or stopped.

Attorney Steven Wrabel addressed the Board. Under New York State law the Zoning Board has limited jurisdiction and is only allowed to address issues raised in an appeal. In his opinion there are no violations and nothing to appeal. It was clearly stated by the former Building Inspector that there has been an increase in production on the property, not a change in use. Mr. Wrabel reviewed the timeline of the business since its inception in 1957. Processing has always taken place and is an integral part of a landscape supply business. The only change has been starting in 1990 the use of modern equipment to crush rock rather than doing it by hand. The applicant's home was built in 2008 and everyone was aware of the business being conducted. Some even purchased their home at a discount because their property abutted this business. The applicant's home was one of them.

Mr. Caruso stated that accession is considered abandonment causing one to lose right of the non-conforming use.

Mr. Wrabel responded that there is no abandonment of use on record. According to the Town Code, abandonment must take place for 12 months or more, which is not the same as infrequent use. In addition, case law supports that processing is required in this type of business and an increase in production is not considered expansion. This is nothing more than a legal non-conforming use that modernized. Mr. Wrabel added that the Department of Health performs environmental oversight. He went on to say that in his opinion the video shared by Mr. Porco should be litigated in the suit before the Supreme Court. With regard to the Settlement Agreement, jackhammering has been done in the past and is not a new use. Mr. Caruso reminded the Board that the Building Inspector has the discretion to conduct a site visit and determine if there is a violation. Mr. Wrabel responded by that the Building Inspector should only be addressing issues that are part of the appeal. Mr. Caruso went on to say that although the Department of Health performs environmental oversight, it is not the same as going through the site plan and environmental review processes. Mr. Wrabel responded that the environmental review would have been undertaken by the Town when the abutting housing development was built.

Mr. Guyot asked owner of Whispering Pine Landscape Supply Tom Kuck if he could explain what tub grinding is. Branches and logs are separated, then individually get hammered, and after it sets it is mulch.

Mr. Porco addressed the Board and stated that Mr. Kuck neglected to mention tree stumps which make a horrific noise and the particulates land in his yard.

Mrs. Calamari of Cary Street in Mahopac addressed the Board. She has lived adjacent to Whispering Pine Landscape Supply since 1974. Prior to the last 6 years there was never a problem, now she is awakened by noise, the piles are building up and they smell, which she believes is an environmental issue. Although she doesn't understand what they do as part of their business, she just wants to live her life. Neighbors are supposed to help each other.

Patricia Hirsch of 2463 Evergreen Street, Yorktown Heights addressed the Board. In her opinion this is all about caveat emptor...let the buyer beware. What is happening now on the property was going on when all of those concerned bought their houses.

Mr. Porco addressed the Board. He has been complaining about this situation for 2 years and no one listened. Finally, with the help of former Supervisor Mary Beth Murphy the Building Inspector conducted a site visit and issued two violations resulting in the Settlement Agreement. Current Supervisor Rick Morrissey asked that they move the machinery to the back of the piles. In closing Mr. Porco addressed the Board explaining what transpired in a conversation between he and Gerry Reilly.

Lana Magro of 22 Rosemary Court addressed the Board. She read aloud a letter outlining her concerns, a copy of which was submitted to the members, as well as the Board Secretary.

Joe Lucia of 21 Rosemary Court addressed the Board. His main concern is health issues that can be caused from what is going on at the site and he was very upset to hear that there is pending paperwork from the Department of Health.

A resident of Cary Street in Mahopac addressed the Board. What has been going on at the site since 2000 is not what was happening when she moved into her house. There is dust, dirt, and odors. In addition, her husband has had numerous upper respiratory problems.

Amy Sage of Mahopac addressed the Board. She is concerned that folks weren't notified of the Settlement Agreement and meetings. Mr. Reilly explained that no one was notified of the Settlement Agreement and Public Notices are not sent to residents outside of Somers unless it is a Use Variance. With regard to the site, she said the berms are high, there is mulch, dirt, and stone dust, which can lead to lung problems and cancer. Ms. Sage spoke to employees of the nursery who said operations have

definitely changed. She was told by the Westchester County Department of Health that they don't have a long-term permit, only a short term one for rock crushing.

Ms. Hirsch of 2463 Evergreen Street, Yorktown Heights addressed the Board. Mr. Kuck is not sick and she is quite sure that he would not do anything at the site to get his employees sick.

Vito Andriano of 18 Dr. Tony's Road addressed the Board. He has worked with Whispering Pine Landscape Supply for many years. They donated \$15,000 to \$20,000 worth of materials for the batting cages in Reis Park. Mr. Kuck is a decent, conscientious person and he hopes for a peaceful resolve.

Mr. Porco addressed the Board. He is not saying that Mr. Kuck is not a nice guy, but there is a major problem that has to be resolved.

Catherine Porco addressed the Board. They moved into their home 6 years ago and it has been a nightmare. There is no way what is happening at the site now was going on when they moved there. Her and her family don't want to be home as there is no quiet enjoyment. Mrs. Porco is concerned about their health and she needs to know that the Zoning Board cares about what is happening to them. The value of their homes is dramatically going down. She welcomes a visit to her home by the Zoning Board.

A resident of Putnam Valley addressed the Board. For the last 10 years they have been running a full-fledged transfer station and they are not just selling what they produce. This business shouldn't be in a residential area.

David Kuck addressed the Board. They built a berm in an effort to be good neighbors, and they are not processing blacktop. Reality is that the development never should have been built.

Jim Flaherty of 48 Boniello Drive in Mahopac addressed the Board. So many false statements have been told this evening. The piles have gotten larger and there are excavators on top of them. The noise is unbelievable. When he moved there in 1979 there was no noise. The stone dust is everywhere. There are no more animals in the woods. He is just looking out huge mounds and can see clouds of dust coming down the road. The entire situation is unbearable.

Mr. Curcio addressed the Board. He is a supporter of the business. If they weren't tub grinding and taking in yard waste, everyone's taxes would increase.

Mrs. Calamari addressed the Board. She thinks there is a park across the street from the housing development, why can't they move their operations there.

Mr. Porco said the berms are 10 to 15' high. He wonders if the constant vibrating is compromising his house.

A resident of Cary Street in Mahopac addressed the Board. They start working at 7:00 a.m. seven days a week.

Chairman Cannistra would like the Board members to visit the site before the December meeting.

Mr. Porco addressed the Board. They won't hear or see anything now because the processing has stopped. Chairman Cannistra responded that it is at least a starting point for the Board.

A motion was made by Ms. D'Ippolito to close the public hearing and seconded by Mr. Santaroni. All were in favor.

At the next meeting the Board will adjourn into Executive Discussion with the Town Attorney.

The application will be carried over to the December 18th meeting.

OTHER BUSINESS:

A motion was made by the Chairman to approve the minutes of the October 16, 2018 meeting. All were in favor.

Happy Thanksgiving wishes were extended to all. The Town Tree Lighting is on December 2nd.

The next monthly meeting of the Zoning Board of Appeals will be held on December 18, 2018 at 7:30 p.m. There being no further business, the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board

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Telephone
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Facsimile

ZONING BOARD OF APPEALS

TOWN HOUSE
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Town of Somers

WESTCHESTER COUNTY, N.Y.



Meeting Minutes
December 18, 2018

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

Mr. Carpaneto was absent.

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 1 on the agenda has been permanently adjourned at the request of the applicant. In addition, the application for Janet Lupinacci, item number 5 on the agenda has been adjourned to the January meeting at the request of the applicant.

URSTADT BIDDLE PROPERTIES, INC. – BZ25/18 – 17.15-1-13

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.

Andy Albrecht, Vice President, as well as Director of Management and Construction for Urstadt Biddle Properties, Inc. addressed the Board. Four signs are being proposed. A wall sign for the building and three free standing pole signs. As per the original site plan for this building, only the new wall sign is permitted. All of the existing tenant signage will be removed, including the two existing directory wall signs. The "Town Center Professional Building" sign over the 1st floor main entrance will remain. All three pole signs will have the names of the six tenants in black letters with the same font on white

Lexan panels. The frame of each is black and all three will be internally lit. With regard to illumination, at night the white letters appear black and the black letters appear white giving it a very subtle appearance. On top of each, is a silhouette of three elephants. The sign proposed for the back of the building will have directional arrows for the 1st and 2nd floors.

At the request of the Chairman at the last meeting, he was asked to provide the following: a site plan with the exact location of each sign noted; building elevations; pictures of what the signs would look like lit at night; and a photo of the proposed wall sign, which he did.

Chairman Cannistra announced that all members have visited the site since the last meeting.

Although everyone appreciated the additional information provided, there was still some concern over the size of the sign to be placed on the Route 202 side of the building, as well as the number of signs being proposed. Mr. Albrecht stressed the need for the tenants to have visibility. Some felt that only the building needs to be identified, not necessarily the tenants.

President of Urstadt Biddle Properties, Inc. Willing Biddle addressed the Board and re-emphasized that since this is not an office building and it is similar to a retail business, shingles advertising the professionals in the building are important to the occupants. He also noted that the signs proposed are internal to the shopping center and similar to the signage they have in the Somers Commons.

Mr. Guyot asked that the foot care sign in one of the windows be taken down and reminded the applicant that all other signage on the building be removed.

Mr. Biddle said that if the number of signs is an issue, he would be willing to eliminate the directory sign from the proposal.

Phyllis Fable of 19 Annarock Drive addressed the Board. She supports the businesses in that building and thinks the larger sign at Route 202 is needed.

A resident of 13 Hyatt Lane addressed the Board. He goes to the podiatrist in that building and feels that the directory sign is important so that patients who have difficulty walking can get to where they need to go without an issue.

In an effort not to delay this application any further, Mr. Biddle is willing to reduce the size of the sign proposed for the Route 202 side of the building from 6' by 6' to 4' by 4'.

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

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

POLL OF THE BOARD

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

Mr. Guyot made a motion to approve the sign proposal as submitted with one exception, the sign proposed for Route 202 will be reduced in size from 6' by 6' to 4' by 4'. Mr. Santaroni seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

MASTRANTONI BROS., INC. – BZ29/18 – 5.19-2-55

An application for an Area Variance for a 2.5' rear yard set-back for a new dwelling that replaced an existing one family dwelling that burned down, located in an R-10 Residential District at 12 Hickory Road, Mahopac. The property is shown on the Town Tax Map as Section: 5.19, Block: 2, Lot: 55. RE: Section Schedule 170:A1 of the Zoning Schedule.

Paul Mastrantoni addressed the Board. He bought the property after the 1 ½ story house burned down. The foundation had to be replaced and a new 2 story house was built in the exact location, at the recommendation of the former Building Inspector, of the previous house. A non-conformity was issued for the former house. Building Inspector Tooma thought now was the opportunity to make the new house conforming therefore a 2.5' rear yard Area Variance would be needed. The issuance of a Certificate of Occupancy is pending the outcome of this evening's request. All other aspects of the new house construction are in order.

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

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

Mr. Guyot made a motion to grant the 2.5' rear yard set-back. Mr. Harden seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

GERARDO AND CONSIGLIA VILLANI – BZ30/18 – 37.11-1-3

An application for an Area Variance to construct driveway entry gates, located in an R-120 Residential District at 2649 Route 35, Katonah. The property is shown on the Town Tax Map as Section: 37.11, Block: 1, Lot: 3. RE: Section Schedule 170-49.

Gerardo Villani addressed the Board. He would like to install an 8' high gate and stonewall that is 9' 6" high with lions on each of the pillars and 45' from the road. Mr. Villani owns 25 acres of property and the closest driveway is 800 to 1,000' away. An Area Variance is being request to have privacy and security. The gate will have a direct connect to the Fire Department and its own electric meter.

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

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

POLL OF THE BOARD

Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye

Mr. Santaroni Aye
Chairman Cannistra Aye

Mr. Harden made a motion to grant the Area Variance as per the plans submitted. Mr. Guyot seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

HERITAGE HILLS SEWAGE WORKS – BZ32/18 – 17.10-10-18.1

An application for an Area Variance to install a 1,000-gallon capacity liquid propane tank below grade, located in a DRD Zoning District at 9 Heritage Hills Drive, Somers. The property is shown on the Town Tax Map as Section: 17.10, Block: 10, Lot: 18.1. RE: Section Schedule 170-32.7H.

Rosco Booker of Cedarwood Engineering Service addressed the Board. He is requesting an Area Variance to bury a 1,000-gallon propane tank for six heaters at the existing wastewater treatment plant. The tank is made of steel, painted with an epoxy type paint and will be anchored below the ground with concrete, sand, as well as gravel. It will be visually inspected and pressure tested each time it is filled, about once a month. If there is a leak it just dissipates up into the air. Underground tanks are safer than those that are above ground.

Mr. Santaroni made a motion for a Type II action. Ms. D'Ippolito seconded the motion.

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

POLL OF THE BOARD

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

Mr. Guyot made a motion to grant the Area Variance as per the plans submitted. Mr. Harden seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

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

KAELA CHOQUETTE AND DAVID POTTER – BZ33/18 – 28.06-1-5

An application for an Area Variance without the need for a ruling from an administrative officer pursuant to Town Law 274-b, from Town Code Section 170-69 (B)(2) which prohibits the housing of domestic animals in a building used for human habitation, 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 and Town Law 274-b.

KAELA CHOQUETTE AND DAVID POTTER – BZ34/18 – 28.06-1-5 and 4

An application for a Special Exception Use Permit to keep up to six (6) horses on two properties, located in an R-80 Residential District at 6 and 8 Annarock Drive, Somers. The property is shown on the Town Tax Map as Section: 28.06, Block: 1, Lot: 5 and 4. RE: Section Schedule 170-69.

Attorney Don Rossi addressed the Board. Two new applications were submitted on behalf of his clients Kaela Choquette and David Potter. One for an Area Variance without the need for a ruling from an administrative officer pursuant to Town Law 274-b, from Town Code Section 170-69 (B)(2) which prohibits the housing of domestic animals in a building used for human habitation, and the other, an application for a Special Exception Use Permit to keep up to six (6) horses on two properties – 6 and 8 Annarock Drive. Statements of Use for both applications were submitted. Once again, Mr. Rossi reminded the Zoning Board members that the applicants are more than willing to accept stipulations as they see necessary on any approvals. Examples of what some of those

conditions could be were listed. In using the word farm, Mr. Rossi reiterated that it will not be operated for business, but simply a farm for retired horses. The apartment will not pose a dangerous situation to the family member or horse caretaker that is living in it. The paddocks will only be used for the horses to get fresh air and exercise for short intervals throughout the day. They will get fed in their stalls and don't need the grass for grazing.

Town Attorney Gerry Reilly reminded the Board that if either of the lots were sold off, the approval would be null and void.

Attorney Michael Caruso representing Barlow and Patricia Humphreys as well as George Azar addressed the Board. Documents were provided to the members prior to the meeting, but he wanted to add that in his opinion, the two new Area Variance applications cannot be varied by the Zoning Board. They either need a Use Variance or amendment to the Code from the Town Board, as it has been previously expressed that the Code is outmoded. With regard to animals and humans cohabitating, the Board should apply it as it is written.

Dominic Veltri of 3 Annarock Drive addressed the Board. He submitted a letter to the members prior to the meeting expressing why he objects to all three applications. Mr. Veltri reviewed his concerns and issues. He submitted a petition against the applications to the Board Secretary.

Chairman Cannistra reminded the audience that anyone who wants to speak will be limited to three minutes.

George Azar of 265 Route 100 addressed the Board. The existing farms with horses in Somers have vast land, not steep slopes that 6 and 8 Annarock Drive have, and in his opinion, there are environmental issues and horses don't belong on the property. He is not happy that a new owner is moving in and transposing an existing neighborhood before they are even living there. Everything that is being proposed for the property is too compressed.

Jim Kearney of 12 Annarock Drive addressed the Board. His concern is that the horses can spread West Nile virus throughout the community since there is no vaccine against it for humans.

Ed and Donna O'Connell of 5 Annarock Drive addressed the Board. Mrs. O'Connell has been a realtor for 22 years and spoke about the real estate comparisons submitted to the Board by the realtor who sold the new owners the property. She vehemently refutes his findings. Having horses did not increase the value of the properties, but actually reduced the selling price at the time of the sale. In her opinion what was presented was very misleading and inaccurate. She also feels that Bibbo Associates didn't do their job correctly. Mrs. O'Connell asked that Board check their records as they have never approved an apartment over a barn. In his opinion, Mr. O'Connell feels as though the Board is for the applicant and if they would just follow the Code there

shouldn't be any problems. Photos of some of the real estate comps and how close their property is to the applicant were shared.

Steven Miller of 22 Annarock Drive addressed the Board. All three applications come down to tangibles and intangibles, and in his opinion, the intangibles haven't been dealt with. The Zoning Board has the authority to send these applications to the Planning Board. The Chairman reminded him that they are not Planning Board issues. Mr. Miller said no one is more authorized to define the character of the neighborhood than the people that live there.

Patricia Humphreys of 4 Annarock Drive addressed the Board. She read aloud her letter of November 20, 2018 of which a copy was submitted to the members prior to the meeting.

Attorney Don Rossi addressed the Board. Ms. Choquette is the intangible as she will be living on the property and is only proposing to have half the amount of horses she could be asking for. The applications are a Type II and there is no Use Variance. All of the objections are conjecture only. What is being proposed is consistent with the neighborhood. Tim Allen of Bibbo Associates should be commended for coming up with a project that follows the Code so precisely. The only reason there have been adjournments is because of the objectors which resulted in his client being forced to hire an attorney and engineer.

Ms. Choquette addressed the Board. Horses are vaccinated which stops the passage of disease. She will not be running a business, and the horses are her pets. They have diabetes therefore cannot live on grass which could literally kill them. This is now her home and she would not let it become a manure infested cesspool. Although the top of her property is beautiful and flat, no horses will be ridden on the property. Ms. Choquette does have a horse that she rides, but it will not be living at her new property. The manure will be contained and removed at least weekly. She is not trying to get around requirements by changing things. There is nothing deceiving going on. She is simply trying to address the concerns people living around her have. Before the property was purchased, several conversations took place between her and the former Building Inspector to be sure that she could have horses. She is agreeable to any and all stipulations the Board puts on any approvals granted.

Eric Rosenfeld addressed the Board. He is the realtor that sold Ms. Choquette and Mr. Potter the property. The information that he presented to the Board was not supposed to be a real estate comparison but to address whether or not the presence of horses diminishes the property value, not increase it.

Barlow Humphreys of 4 Annarock Drive addressed the Board. He submitted a letter to the Board prior to the meeting. He expressed his objections and concerns regarding the three applications.

Attorney Don Rossi addressed the Board. He reminded everyone that any approvals with stipulations must be strictly adhered to and if they are violated the Code Enforcement Officer will get involved.

Mr. Guyot made a motion to close the public hearing on the three Choquette/Potter applications. Mr. Harden seconded the motion.

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

POLL OF THE BOARD

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

The public hearing was closed.

Chairman Cannistra reiterated that the Board's responsibility is to seek reasonable relief from the Zoning Codes and if anyone is not satisfied with their decision, they are free to file an Article 78 with the Supreme Court.

The members of the Board were given an opportunity to share their thoughts on each of the applications. A discussion ensued.

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

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

Ms. D'Ippolito made a motion to grant the Special Exception Use Permit to construct an accessory apartment on the 2nd floor of a barn with the understanding that only family or caretakers of the horses may live in it. The accessory apartment may not be rented out. In addition, an Area Variance because the barn is being constructed after April 1, 1992 was also granted. Mr. Guyot seconded the motion.

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

POLL OF THE BOARD

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

The Special Exception Use Permit and Area Variance were approved.

Special Exception Use Permits for accessory apartments must be renewed every 7 years and if the property is sold, it must be renewed within 6 months by the new owner.

Mr. Guyot made a motion for a Type II action. Ms. D'Ippolito seconded the motion.

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

POLL OF THE BOARD

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

Ms. D'Ippolito made a motion that the only domestic animals that may be housed in the barn are horses. Mr. Guyot seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

Mr. Guyot made a motion for a Type II action. Ms. D'Ippolito seconded the motion.

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

POLL OF THE BOARD

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

Mr. Harden made a motion to grant a Special Exception Use Permit to keep up to six (6) horses on the two properties under the following conditions:

1. All horses kept on the two properties shall be owned or leased by one or both of the Appellants.
2. There shall be no leasing of stalls.
3. There shall be no leasing of horses on an hourly, daily or other basis.
4. There shall be no private or group lessons offered to the public.
5. There shall be no outdoor illumination of paddocks and no outside loudspeaker systems.
6. The handling of manure, including its removal, shall comply with the Town of Somers Town Code and Westchester County Sanitary Code, and
7. All feed shall be stored in rodent proof containers. Mr. Guyot seconded the motion.

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

POLL OF THE BOARD

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

The Special Exception Use Permit was approved.

At 10:40 p.m. the meeting was temporarily adjourned for a break and reopened at 10:55 p.m.

ANTHONY AND CATHERINE PORCO – BZ01/18 – 4.18-1-1 (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 Residential 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.

At the last meeting, a motion was made by Ms. D'Ippolito and seconded by Mr. Santaroni to close the public hearing for this application. All were in favor.

Chairman Cannistra reported that at his request, all of the Board members have visited the site and surrounding neighborhood since the last meeting. In addition, an Executive Session with the Town Attorney to discuss this application took place.

All Board members were given an opportunity to share their thoughts about the application. A discussion ensued. The City of White Plains v. Amodio's Garden Center and Flower Shop, Inc. case of February 26, 2009 was referenced.

Mr. Guyot made a motion for a Type II action. Ms. D'Ippolito seconded the motion.

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

POLL OF THE BOARD

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

Mr. Guyot made a motion in agreeance with the former Building Inspector Efrem Citarella's letter of October 13, 2017 stating that he found no violations during his site visit conducted at Whispering Pine Landscape Supply on October 2, 2017. Mr. Newman seconded the motion.

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

POLL OF THE BOARD

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

OTHER BUSINESS:

The minutes of the November 20, 2018 meeting will be approved at the meeting in January.

The next monthly meeting of the Zoning Board of Appeals will be held on January 15, 2019 at 7:30 p.m. There being no further business, the meeting was adjourned at 11:10 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board

DRAFT