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ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

*Town of Somers*

WESTCHESTER COUNTY, N.Y.



**Meeting Minutes**

January 15, 2019

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 led by two Boy Scouts that were in attendance.

**APPLICANTS**

**JOHN AND DIANA RICE – 2019:ZB01 – 37.10-1-17**

An application for an Area Variance for a 6' side yard set-back 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.

Diana Rice addressed the Board. When they bought the property in 2007, a tool shed existed and it had a carport type structure over a concrete slab attached to it. Electric existed. They enclosed the structure and added about 6 feet to it not realizing a Building Permit was required. In addition, it is only 9' from the property line and should be 15'. A 6' side yard variance is being sought. The shed is used for tools and a tractor. They are moving and the situation has to be resolved. The house was built in 1939 and the shed is quite far from their neighbor's house or any other structure they have. The Building Inspector will check with the Assessor's office to see if there is a record of the shed. A Building Permit will be required, inspections, including electrical and a Certificate of Occupancy.

Nick Lupinacci addressed the Board. He used to live on Orchard Hill Drive and built the neighbor's house and confirmed there should not be a problem.

Mr. Guyot made a motion for a Type II action. 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

Mr. Santaroni made a motion to grant the 6' side yard set-back. 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.

**JANET LUPINACCI – 2019:ZB02 – 16.17-1-5**

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.

Janet and Nick Lupinacci addressed the Board. Mr. Lupinacci's grandparents bought the property in 1941. It included a house that dated back to the late 1800's and a garage that was 75% built. Upon completion, the garage was used by the Somers Youth Association. His parents inherited the property and the garage was turned into a cottage, which he would like to legalize to have some extra income to pay the taxes. Currently both the two-family house and cottage are being rented. The property is on

the market, but if they can have the accessory apartment, they won't have to sell it. The cottage is 1,390 square feet with the garage and has 2 bedrooms and 1 ½ baths. Mrs. Lupinacci claims to live in the house, which is a requirement, but could only produce a driver's license with a post office box, as well as bills with that same post office box.

There was concern over the size of the apartment, which cannot exceed 800 square feet. Only accessory apartments with one bedroom have ever been approved in the past. In addition, the applicant was before the Board in 2017 at which time the house was grandfathered in as a two family and Mrs. Lupinacci was living on the neighboring property, 163 Route 118 that her husband owns. Also, at that time the applicants were told the garage could not be used as an accessory apartment and the stove in the kitchen had to be removed. If the accessory apartment is approved this one family parcel would be able to accommodate three families, which is not a desired practice in the Town of Somers. As the conversation continued between the Board and the applicant, there was much confusion. It was suggested that a site visit be scheduled, but all didn't feel that was necessary.

Mr. Guyot made a motion for a Type II action. 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	Abstain
Chairman Cannistra	Aye

Mr. Newman made a motion to deny the request to create an accessory apartment in the detached garage. 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	Abstain
Chairman Cannistra	Aye

The Special Exception Use Permit and Area Variance were denied.

**OTHER BUSINESS:**

The minutes of the November 20, 2018 and December 18, 2018 meetings were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on February 19, 2019 at 7:30 p.m. There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board