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ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
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Town of Somers

WESTCHESTER COUNTY, N.Y.



Meeting Minutes

January 21, 2020

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

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

ELMER AND MARIANN AAKJAR – 2019:ZB31 – 36.08-1-20

An application for an Area Variance for a detached one-car garage to an existing one family dwelling in an R-40 Residential District at 23 Elisha Purdy Road, Amawalk. The property is shown on the Town Tax Map as Section: 36.08, Block: 1, Lot: 20. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Elmer Aakjar addressed the Board. He is in need of a 7' side yard Area Variance to build a one-car garage at the end of his driveway. He is somewhat limited in terms of the location because of his well and septic. Consultations with the Tom Tooma and Principal Engineering Technician Steve Woelfle took place before it was determined. The Westchester County Department of Health dictates how far away the garage would have to be from the well. Woods separate him and his neighbor, and their house is about 100' away. Mr. Aakjar spoke with that neighbor and they had no objections to his application. The garage will be placed on a slab, with no basement. There will be a 2nd floor for storage, no plumbing and electric will be added at some point in the future when the service to the house is upgraded. The roof and siding on the garage will match that of the house.

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

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

Mr. Harden made a motion to grant a side yard Area Variance of 7' for a new one-car detached garage. Mr. Carpaneto 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

JANET STROH – 2019:ZB32 – 36.07-1-4

An application for an Area Variance to replace and enlarge an existing deck to an existing one family dwelling in an R-40 Residential District at 6 Noel Court, Amawalk. The property is shown on the Town Tax Map as Section: 36.07, Block: 1, Lot: 4. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Janet Stroh addressed the Board. She is in need of a 2.6' side yard Area Variance to replace and enlarge her existing deck. Proper procedures will be followed to secure a Building Permit. The neighbor's house is about 60' away with a buffer of a wire fence and shrubbery. That neighbor is aware of the project proposal and has no objections.

Mr. Carpaneto 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

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

Mr. Guyot made a motion to grant a side yard Area Variance of 2.6' to replace and enlarge an existing deck. Mr. Harden 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

CHRISTOPHER COLUMBUS SOCIETY – 2019:ZB33 – 26.08-2-16

An application for an Area Variance for an existing deck and wood steps with a platform to a pre-existing non-conforming one-story wood frame building in an R-40 Residential District at 118 Mahopac Avenue, Granite Springs. The property is shown on the Town Tax Map as Section: 26.08, Block: 2, Lot: 16. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Architect Willie Besharat addressed the Board. When the owners of the property were approached by the Town regarding a shed complaint, it was determined that the existing deck and wood steps with a platform to the building were in violation as Building Permits were never secured. In addition, a rear yard Area Variance of 41.2' is needed for the deck that is 10' by 12', as well as a side yard Area Variance of 24.8'; and a front yard Area Variance of 15' is being sought for the wood steps with a platform that is 3' by 3'. The deck is the main entrance to the building and the wood steps with a platform, the only other egress. There are steel doors for entering and exiting. Both the deck as well as the wood steps with a platform are in good condition and have been in existence since the late 50's, early 60's. The railings and steps to the deck are in decent shape and should be code compliant. If the variances are approved, the structures will have to be legalized with the issuance of Building Permits and inspected for code compliance.

Upgrades will not need to be made to legalize the structures unless they are found to be unsafe. The deck is about 24" off the ground.

Treasurer Ron D'Alessandro addressed the Board. There is a 6' stockade fence next to the deck. That neighbor's house is about 60 to 75' away and they have no issues with the application. There is another neighbor that has had issues with things that have been done over the years, but the Society has had no issues with them as of late. The building is available for rentals by members only and no more than 15 to 20 people attend. Their organization only has 30 members.

Attorney Michael Servodidio addressed the Board. He is representing Louise Smith of 120 Mahopac Avenue. Her father bought the property in 1931. She and her husband built their house in 1965. Pictures of 118 Mahopac Avenue were distributed to the Board members. Over the years, there have been continual parties with large groups resulting in loud noise and music that goes on for hours and sometimes quite late at night. The noise issue has been raised with the police who told Mrs. Smith to just try and get along with her neighbors. Since the building is very old, the sound is not retained to the inside. Until recently, complaints made to the Town resulted in little to no help. There are dozens of cars, many of which are parked illegally and the attendees stand outside smoking cigars and cigarettes. The building was originally a church and not designed for this type of use. It changed hands from the Church of the Good Shepherd, to the American Legion, and finally to the Christopher Columbus Society in 1957 for a \$1.00. Water and waste facilities are being overburdened by the use. There were three parties over the last few weeks. The structure is an old wooden building and there is a large grill next to it that is often in use. Although the applicant is trying to legalize the deck and wood steps with a platform, they are still not legal. In Mr. Servodidio's opinion, both structures should be removed and replaced with steel steps and a small platform that are not an eyesore. It was estimated that Mrs. Smith's house was about 15' away. She is 89 years old and is constantly worried about what the Society is going to do next that is not legal. Her experiences with the members in the past have been very traumatic to her, as they were always confrontational. In addition, the use of the property, as well as it not being properly maintained is devaluing her property.

Ed Dowdall of 121 Mahopac Avenue addressed the Board. He has lived in his house, which is across the street, since 1987. Some years ago, he did have issues with the Society as a result of the loud music. He is aware of the issues that Mrs. Smith has had with the Society, and she has been in touch with them. The deck is not that old, he heard them building it, however he is not sure if they made it bigger. It is not clear if they rent to just members or outsiders as well. When they have a party, it does get quite busy. Mr. Dowdall is unaware of any traffic from a party resulting in an accident. His wife commented from the audience that their parking lot is quite small and they have used the street for parking. There used to be no parking signs posted, but they were removed.

Catherine Rabidou addressed the Board. Her mother is Mrs. Smith. She grew up in the house and lives there now. It is impossible to sit on their enclosed porch in the warmer weather because of the cigarette and cigar smoke being generated while they are hanging out on the deck. There is always a lot of laughing and yelling. They also stand on the platform to smoke and urinate. Over this past month there have been three parties. When the party is over, they hear doors slamming and see the headlights. The stockade fence that was mentioned is a hodge-podge mess, the grass is rarely mowed, one half of the roof is in disrepair and the area is anything but scenic. If the variance is denied, and the overflow ends up on the grass, Ms. Rabidou will call the police to take care of any noise issues. About a year ago, her mother tried to speak to some of the men about a situation. They were not very courteous, and in fact rude to her.

Google Earth shows Mrs. Smith's house to be about 15 to 20' away from the wood steps with a platform and 80 to 90' away from the deck.

Mr. Besharat addressed the Board again. The use and operation of the Society is irrelevant to the application. The structures are necessary and if the variances are denied, variances will still be needed to make them smaller. They were replaced and repaired a couple of years ago to make them safer, they were not expanded.

President Mark Palancia addressed the Board. He has been a member of the organization for 7 years. The cars are not regularly parked on the road. They rent to members only. Yes, they do smoke cigarettes and cigars when they are outside. They have asked all of the neighbors to contact them if there is an issue with noise. He has no idea when the structures were built, but they were updated with pressure treated wood not that long ago. No additional footings were added. Three years ago, they approached Mrs. Smith because they needed to temporarily take down her chicken wire fence, which is about 6 to 9" away from their building, to repoint their foundation, and she told them no.

Mr. Besharat readdressed the Board. Over the summer, the Society had a survey done of their property and Mrs. Smith's chicken wire fence is on their property.

Mr. Servodidio addressed the Board again. Their website talks about renting the building and a rental application is available. Why would that be if they rented to members only. Mrs. Smith denied them permission to remove her chicken wire fence as a result of past bad experiences with them. This is the first he is hearing of her chicken wire fence being on their property. He too would like to know what happened to the no parking signs that were posted on Mahopac Avenue.

Ms. Rabidou addressed the Board again. She remembers wood steps with a platform where the deck is now located. They made it bigger a few years ago. Ms. Rabidou will see if her mother has any pictures of what the area looked like before the deck was there. When they replaced their roof, her father gave the Society permission to take his fence down and access the roof from their property with the understanding that at the end of each day the debris would be cleaned up and removed. That never happened.

Her father ended up cleaning up all the mess. When it came time for the other half of the roof to be done, her father refused to make the same arrangement. In 2018, the Sunday of Thanksgiving weekend, they placed a new plastic shed right up against their fence.

An opportunity for further comment from the Board members was given. All were conflicted and wanted verification somehow, from the Building Inspector, as to whether or not the deck was extended. Mr. Guyot agreed that the exterior of the building is rough looking and could use some landscaping to soften it up. The application will be carried over to next month.

ROBERT AND DASHA EPSTEIN – 2020:ZB01 – 48.09-1-7

An application for an Area Variance for a storage addition to an existing accessory garage to an existing one family dwelling in an R-80 Residential District at 11 Wood Street, Katonah. The property is shown on the Town Tax Map as Section: 48.09, Block: 1, Lot: 7. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Bobby Epstein addressed the Board. He is in need of a 37.8' front yard Area Variance for a storage addition to an existing two-car accessory garage. Mr. Epstein is a classic car collector. He is within his limits for accessory structures on his property and no environmental permits were required. The addition will be placed on a slab, there is no basement or 2nd story. It will have electricity, but no plumbing. The two neighbors were consulted and there were no objections to the proposed project.

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

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

Mr. Harden made a motion to grant a front yard Area Variance of 37.8' for a storage addition to an existing two-car accessory garage. Mr. Carpaneto seconded the motion.

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

POLL OF THE BOARD

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

The Area Variance was approved.

ROBERT AND DASHA EPSTEIN – 2020:ZB02 – 48.09-1-7

An application for an Area Variance for a new three-car accessory garage to an existing one family dwelling in an R-80 Residential District at 11 Wood Street, Katonah. The property is shown on the Town Tax Map as Section: 48.09, Block: 1, Lot: 7. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Bobby Epstein addressed the Board. He is in need of a 61.7' front yard Area Variance for a new three-car accessory garage to an existing one family dwelling. Mr. Epstein is a classic car collector. He is within his limits for accessory structures on his property and no environmental permits were required. The garage will be placed on a slab, there is no basement or 2nd story. It will have electricity, but no plumbing. The two neighbors were consulted and there were no objections to the proposed project.

Frank Cantor of 7 Wood Street addressed the Board. He has no objections to the proposed projects. In the past, if he and Mr. Epstein had any issues, they were resolved immediately. In light of the previous application, this just goes to show you that there is a way for neighbors to get along.

Mr. Harden 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

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

Mr. Carpaneto made a motion to grant a front yard Area Variance of 61.7' for a new three-car garage. 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

OTHER BUSINESS:

The minutes of the November 19, 2019 meeting were approved as submitted.

As a new member of the Board, Mr. Lansky asked about recusing oneself from an application. The determination has always been up to the individual Board member, who should use their own judgement.

The next monthly meeting of the Zoning Board of Appeals will be held on February 18, 2020 at 7:30 p.m. There being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board