

Telephone  
(914) 277-5582

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## ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

# Town of Somers

WESTCHESTER COUNTY, N.Y.



## AGENDA

May 19, 2020  
7:30 PM

### SOMERS TOWN HOUSE MEETING ROOM

1. **ALBERT AND ANN MARIE GOJCAJ**     **2020:ZB09 (CARRYOVER)**  
An application to renew a Special Exception Use Permit as a new owner for an existing accessory apartment on the 2<sup>nd</sup> floor of a detached garage of an existing one family dwelling in an R-80 Residential District at **5 County Line Drive, Mahopac**. The property is shown on the Town Tax Map as **Section: 4.19, Block: 2, Lot: 1**. RE: Section Schedule 170-70.
  
2. **RAYMOND SIMPSON AND LINDA GAFKOWSKI**     **2020:ZB12**  
An application to renew a Special Exception Use Permit for an existing accessory apartment in a detached structure of an existing one family dwelling in an R-80 Residential District at **31 Plum Brook Road, Katonah**. The property is shown on the Town Tax Map as **Section: 28.17, Block: 1, Lot: 12**. RE: Section Schedule 170-70.
  
3. **MARK AND ANNEMARIE AUNE**     **2020:ZB13**  
An application for an Area Variance for an existing deck of an existing one family

dwelling in an R-40 Residential District at **5 Verona Place, Mahopac**. The property is shown on the Town Tax Map as **Section: 16.07, Block: 1, Lot: 35**. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

**4. BERNARD WEISER AND  
DOROTHY WATSON**

**2020:ZB14**

An application for an Area Variance to expand an existing one car attached garage to a two-car attached garage of an existing one family dwelling in an R-80 Residential District at **42 Mekeel Street, Katonah**. The property is shown on the Town Tax Map as **Section: 47.08, Block: 1, Lot: 11**. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

**5. OTHER BUSINESS**

Approval of April 21, 2020 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  
*Albert + Ann Marie Gojcaj*

B Z NUMBER *2020: ZB09*  
DATE: *3/14/2020*

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

1. *Ann Marie Kulaj - Gojcaj*  
(Name of appellant)

whose post office address is *5 County Line Drive, Mahopac, NY 10541*  
(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)  
*Renewal of a Special Exception Use Permit  
as a new owner for an existing  
accessory apartment on the 2nd floor  
of a detached garage to an existing  
one family dwelling in an R-80  
Residential District*

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

Town Tax Map as Section: *4.19* Block: *2* Lot: *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 .....

5 County Line Drive

(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 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 8<sup>th</sup> DAY January 20 20
Denise Schirmer NOTARY SIGNATURE
Owner Signature OWNER SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC0298242
Notary Signature
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  
Raymond Simpson and  
Linda Gafkowsky

B Z NUMBER 2020: ZB12  
DATE: 3/5/2020

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

1. Linda Gafkowsky  
(Name of appellant)

whose post office address is 31 Plum Brook Road, Katonah, NY 10534  
(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)  
Renewal of a Special Exception Use Permit  
for an existing 2 bedroom accessory  
apartment on the ground floor of a  
detached structure to an existing one  
family dwelling in an R-80 Residential  
District

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

31 Plum Brook Road  
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 28.17, Block: 1, Lot: 12

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 .....

31 Plum Brook Road

(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 as per the Code of the Town of Somers for accessory apartments

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 5<sup>th</sup> DAY March 20 20

Denise Schirmer  
NOTARY SIGNATURE

[Signature]  
OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
Notary Signature  
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  
*Mark and Annemarie Anne*

B Z NUMBER .....  
DATE: .....

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

1. *Mark and Annemarie Anne*  
(Name of appellant)

whose post office address is *5 Verona Place, Mahopac, NY 10541*  
(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 24, 2019*  
(Office held)

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

(Give summary of ruling)  
*An application for an Area Variance  
for an existing deck in an R-40  
Residential District - rear yard*

3. The property which is the subject of the appeal is located at or known as .....  
*5 Verona Place* and is shown on the  
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: *16.1.7* Block: *1* Lot: *35*

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 .....

5 Verona Place

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

50' is required  
15.7' exists  
variance needed is 34.3'

and such may be granted pursuant to 170: A1 Zoning Schedule Part 1

(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 30<sup>th</sup> DAY April 20 20

Denise Schirmer  
NOTARY SIGNATURE

America Home Max Kover  
OWNER SIGNATURE

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

Bernard Weiser and  
Dorothy Watson

B Z NUMBER .....

DATE: .....

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

1. Bernard Weiser and Dorothy Watson

(Name of appellant)

whose post office address is 201 West 72nd St, Apt PH3B, NY NY 10023

(Post office address)

through Michael Dalton - Architect

(Name of attorney or representative if any)

whose post office address is 10 Ridgeway Avenue, White Plains, NY 10606

(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. Toome, Jr.

(Name of officer)

Building Inspector made on March 5, 2020

(Office held)

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

(Give summary of ruling)

An application for a side yard area  
variance to expand an existing one car  
attached garage to a 2 car attached  
garage in an R-80 Residential Zone

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

42 Melind Street

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

Town Tax Map as Section: 47.08 Block: 1 Lot: 11

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 .....

42 McKel Street

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

A 40' setback is needed - 26' exists requesting a 14' side yard Area Variance

and such may be granted pursuant to section 170 A1 Zoning Schedule Part 1

(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 30<sup>th</sup> DAY April 2020

Denise Schirmer  
NOTARY SIGNATURE

OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
No. 01SC028742  
Qualified in Dutchess County  
Commission Expires March 10, 2020

NOTARY SIGNATURE

[Handwritten Signature]  
APPLICANT SIGNATURE

APPLICANT SIGNATURE

(914) 277-5582  
Telephone

(914) 277-3790  
Facsimile

## ZONING BOARD OF APPEALS

# Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

Victor Cannistra  
Chairman



### Meeting Minutes

April 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 7:35 p.m. with the Pledge of Allegiance.

### APPLICANTS

#### **SOMERS LAND TRUST – 2020:ZB07 – 17.08-10-15**

An application for an Area Variance for a sign in an R-40 Residential District at 401 Route 202, Somers. The property is shown on the Town Tax Map as Section: 17.08, Block: 10, Lot: 15. RE: Section Schedule 170-25.

Michael Barnhart, President of the Somers Land Trust addressed the Board. They want to put a sign up at the entrance of their newly developed Rhinoceros Creek Reservation. The sign is double sided and 8 square feet. It was reviewed and supported in writing by the Architectural Review Board, but couldn't be approved because it is larger than the 150 square inch sign permitted in an R-40 Residential District. The overall concern of the Zoning Board was the placement of the sign so it wouldn't impact visibility of traffic. Mr. Barnhart said it will be placed beyond the stone wall at the entrance.

Mr. Carpaneto 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

Ms. D'Ippolito made a motion to approve the 8 square foot double sided sign with the stipulation that it will be placed behind the existing stone wall at the entrance. Mr. Carpaneto seconded the motion.

**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.

**ALAN COHEN AND CORINNE LAPIN – 2020:ZB08 – 59.05-1-2**

An application to renew a Special Exception Use Permit for an existing accessory apartment on the 2<sup>nd</sup> floor of a detached garage to an existing one family dwelling in an R-120 Residential District at 17 Old Route 100, Katonah. The property is shown on the Town Tax Map as Section: 59.05, Block: 1, Lot: 2. RE: Section Schedule 170-70.

Alan Cohen addressed the Board. The apartment is vacant. Assistant Building Inspector Mike Dunbar inspected the apartment and there have been no changes. It meets all code requirements, and there have been no complaints or violations. The septic tank was cleaned in February 2018 and a copy of the receipt was given to the Board Secretary.

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 the Special Exception Use Permit for an existing accessory apartment on the 2<sup>nd</sup> floor of a detached accessory structure of an existing one family dwelling. Mr. Carpaneto seconded the motion.

**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 Special Exception Use Permit was approved.

**ALBERT AND ANN MARIE GOJCAJ – 2020:ZB09 – 4.19-2-1**

An application to renew a Special Exception Use Permit as a new owner for an existing accessory apartment on the 2<sup>nd</sup> floor of a detached garage to an existing one family dwelling in an R-80 Residential District at 5 County Line Drive, Mahopac. The property is shown on the Town Tax Map as Section: 4.19, Block: 2, Lot: 1. RE: Section Schedule 170-70.

No one was present at the meeting to represent the applicant.

**ADIS AND KRISTA RAMOS – 2020:ZB10 – 4.19-214**

An application to renew a Special Exception Use Permit for an existing accessory apartment attached to an existing one family dwelling in an R-40 Residential District at 264 Mahopac Avenue, Yorktown Heights. The property is shown on the Town Tax Map as Section: 4.19, Block: 2, Lot: 14. RE: Section Schedule 170-70.

Adis Ramos addressed the Board. The apartment is occupied by a couple and their two young children. Assistant Building Inspector Mike Dunbar inspected the apartment and there have been no changes. It meets all code requirements, and there have been no complaints or violations. The septic tank was cleaned in December 2020 and a copy of the receipt was given to the Board Secretary.

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 the Special Exception Use Permit for an existing accessory apartment attached to an existing one family dwelling. Mr. Guyot seconded the motion.

### 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 Special Exception Use Permit was approved.

### **JOHN AND NORA MACKEY – 2020:ZB11 – 28.05-1-47**

An application for an Area Variance for a new deck to an existing one family dwelling in an R-80 Residential District at 49 Hallocks Run, Somers. The property is shown on the Town Tax Map as Section: 28.05, Block: 1, Lot: 47. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Nora Mackey addressed the Board. She would like to build a new deck on some of the existing patio, but is in need of a 7' rear yard setback area variance. The nearest neighbor has no issues or concerns. Approval has been given by the homeowner's association, and no permits are needed from Planning and Engineering. They have a community well as well as septic and are cluster zoned houses. Currently there are steps from a side door that lead down to the patio. The plan is to install a sliding glass door that would lead right out onto the deck and there would be steps from the deck going down to the patio. A lot of screening and shrubs exist. Mrs. Mackey doesn't want to reduce the size of the deck to avoid a variance as there is a wall around the patio which would interfere.

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

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.

Public comment was heard from two of the Christopher Columbus Society members, a neighbor, as well as another neighbor and her mother's attorney. The one neighbor in particular had numerous concerns that were reiterated by their attorney.

After hearing comments from the public and dialoguing amongst themselves, all the Board members were conflicted and wanted verification somehow, from the Building Inspector, as to whether or not the deck was extended.

The applicant returned this evening. Since the January meeting, Building Inspector Tom Tooma met with Mr. Besharat at the site. He was unable to see the underside of the deck as it is practically resting on the ground and some portions (support girder) are actually partially below grade. Therefore, he was unable to verify its structural integrity or age. Mr. Besharat and Mr. Tooma discussed the legalization process. Mr. Tooma explained that many deck boards would need to be removed in order to observe the sub structure and it would also involve regrading, verifying footings, bringing the steps to code, etc. They also discussed installing a patio of some sort and Mr. Tooma advised that a building permit would not be required for a patio. Mr. Besharat said he would consult the applicant as to how they wish to proceed. Mr. Tooma also researched Westchester GIS (historical maps) in an effort to age the deck yet no clear images were found. In addition, the Tax Assessor Teresa Stegner provided a memo and a copy of the property card of the findings in her office.

Mr. Besharat addressed the Board. The applicant is willing to remove the deck. The double door, which is the main entrance, leading down to the existing deck is 14" off the ground. The new plan is to have steps from the door that lead to a pressure treated wood platform that is 6' by 8' with steps down to the patio. The wood steps and platform at the side door will be made smaller to only allow for one person to enter and exit. All were pleased with this new proposal. Mr. Besharat will return at the June meeting with updated plans for all to review and act on. In closing, Mr. Guyot asked that the gutter lying in the parking lot in the front of the building be taken care of.

#### **OTHER BUSINESS:**

**Cell Tower Renewal Applications Discussion** - A discussion ensued regarding a memo received from the Planning Board regarding cell tower and co-locator's application review. Based on the legislation encompassed within Article XXIIA. Wireless Telecommunications Facilities of the Zoning Ordinance, added in October 2002, the Zoning Board of Appeals unanimously agreed that the jurisdiction for all such applications lies with the Planning Board even if they received original approval or renewals from the Zoning Board of Appeals.

**Minutes** – The minutes of the February 18, 2020 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on May 19, 2020 at 7:30 p.m. There being no further business, the meeting was adjourned at 9:05 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board

DRAFT