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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
September 15, 2020

Chairman Cannistra opened the meeting at 7:00 p.m. with the Pledge of Allegiance.

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

Mr. Guyot was absent.

Building Inspector Tom Tooma and interested residents were also present.

The meeting was held remotely via Zoom.

APPLICANTS

CHRISTOPHER COLUMBUS SOCIETY OF YORKTOWN, INC. – 2019:ZB33 – 26.08-2-16 (CARRYOVER)

An application for an Area Variance for an existing deck and wood steps to an existing one-story 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.

At the January meeting, 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.

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.

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.

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.

Mr. Besharat was not prepared to attend the June meeting so he returned at the July meeting. He recently learned that pictures were discovered of the existing deck that are very old and date back to when the deck was built when the Society took ownership of the building in the 50's. The most recent plan was to remove the deck and replace it with a step down to a small landing down to a patio. Either way the use would not change, which is what one of the neighbors was concerned about. Another neighbor was thought the deck was extended recently, which the photos will prove it was not, but only repaired. In Mr. Besharat's opinion, currently the deck is structurally sound, but

does need some minor repairs. Given all of these facts and that removing and replacing the deck would cause a financial hardship to this not-for-profit organization, the applicant would like to propose their original application of seeking a variance for the existing deck as well as the side staircase and platform so that a Building Permit can be secured in order to make minor repairs to ensure its safety. The deck is about 15" off the ground. Mr. Tooma did visit the site, in his professional opinion the deck could use a little work, but he was unable to attest to what the condition of the underside of the deck was as it was so low to the ground. He did check the Westchester GIS for pictures of the property, but it was difficult to see that side of the building due to tree coverage. Whether the deck has been expanded or not in recent years, the Board's function is to determine the least intrusive means, which would be a smaller deck. All reiterated that the applicant wants to propose their original proposal of seeking a variance for an existing deck and wood steps, which was confirmed. Mr. Besharat will return at the September 15th meeting and provide the Board Secretary with the discovered photos which will be distributed to the Board via mail before the next meeting.

Attorney Robert Chapnick addressed the Board. He has been updated as to the history of this application and understands that the application and the Board have gone back and forth in an effort to resolve the issues, one being the age of the deck. He has researched both Google Maps and the Westchester County GIS and has determined the deck is at least 16 years old. Mr. Chapnick feels this application represents a hardship due to the unique construction of the building by being 24" off the ground and requiring a staircase and step to access the building and as a result, does not alter the character of the location. In addition, there is a fence around the deck. The neighbor abutting the side of the building where the deck is has never complained and gets along well with the Society members. However, it was noted that the neighbors on the other side of the building have not rescinded their complaints, primarily consisting of noise and provided a copy of the deed indicating that the Society took over the building in 1972 as well as submitted pictures from 1968 that clearly did not show a deck, only a staircase into the building. Mr. Chapnick feels as though that neighbor's complaints are a nuisance issue, have nothing to do with the existing deck and if removed, would not abate the noise. There is also no way to authenticate the photos. The Board does not think a deck of this size is a hardship and everyone should not forget it was built without a permit regardless of how long it has been there. In addition, the function of the Board is to always minimize the size of a grant if possible. In this case egress and ingress are important, not the size of the deck.

All were a bit disappointed as they thought this evening the applicant was going to return with a plan to lessen the variance by removing the deck and only needing a variance for the steps and landing leading to a patio or the grass. That plan would have been acceptable to them. The Board would like to see a revised plan to include the stairway and landing on the other side of the building that will be satisfactory. The applicant was reminded to keep the amount of the variance to the least amount as necessary.

On behalf of the applicant, Mr. Chapnick withdrew the application. They will return when a revised plan has been created.

KEVIN DUFFY AND EVAN FENYO – 2020:ZB17 – 5.17-2-5

An application for the renewal of a Special Exception Use Permit as a new owner for an existing accessory apartment in the basement of an existing one family dwelling in an R-40 Residential District at 8 Cornelius Lane, Baldwin Place. The property is shown on the Town Tax Map as Section: 5.17, Block: 2, Lot: 5. RE: Section Schedule 170-70.

Mr. Duffy and Mr. Fenyo addressed the Board. They just purchased the house in January. The apartment is occupied by Mr. Fenyo and his fiancé. 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 January 2020 and a copy of the receipt was given to the Board Secretary.

Mr. Harden 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Harden made a motion to approve the Special Exception Use Permit for 7 years. Mr. Newman seconded the motion.

POLL OF THE BOARD

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

The Special Exception Use Permit was approved.

JOHN DOUGLAS FREY, II – 2020:ZB18 – 17.08-1-7

An application for the renewal of a Special Exception Use Permit for an existing accessory apartment in a detached 2-story structure (cottage) of an existing one family

dwelling in an R-40 Residential District at 3 Old Croton Falls Road, Somers. The property is shown on the Town Tax Map as Section: 17.08, Block: 1, Lot: 7. RE: Section Schedule 170-70.

Mr. Frey addressed the Board. This is his childhood home and he bought it 20 years ago. The apartment is occupied by his father-in-law and it has two bedrooms. 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 August 2020 and a copy of the receipt was given to the Board Secretary.

Mr. Harden 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Newman made a motion to approve the Special Exception Use Permit for 7 years. Mr. Harden seconded the motion.

POLL OF THE BOARD

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

The Special Exception Use Permit was approved.

URSTADT BIDDLE PROPERTIES, INC. – 2020:ZB19 – 17.15-1-13

An application for an Area Variance for a sign that is longer than what is permitted 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 170-125.

Maggie McKeon, Office Manager of Audiology Associates of Westchester addressed the Board. The company is taking over a corner spot in the Towne Centre in Somers shopping center that use to be a party room of the neighboring restaurant. Since their

storefront is only 6' long, they are only entitled to a sign that is 3' long which clearly wouldn't suffice as the name of their business wouldn't fit on a sign that is only 3' long and there would be no balance with the wall sign of the neighboring restaurant. The proposed wall sign is 8' feet long requiring a 5' variance. If the variance is granted, it will create balance with the restaurant sign as they are the same size. The Architectural Review Board supported this application, but couldn't approve it as the sign was longer than what the applicant is permitted.

Mr. Harden 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Ms. D'Ippolito made a motion to approve the 5' variance for the length of the sign. Mr. Harden seconded the motion.

POLL OF THE BOARD

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

The Area Variance was approved.

CROSSROADS AT BALDWIN PLACE – 2020:ZB20 – 4.12-1-3.1-01

An application for an Area Variance for additional signs that are not permitted in a Neighborhood Shopping District at 57 Route 6, Baldwin Place. The property is shown on the Town Tax Map as Section: 4.12, Block: 1, Lot:3.1-01. RE: Section Schedule 170-125.

Michael Lang, Owner of Signarama in Hartsdale addressed the Board. Green's Natural Foods is taking over three new store fronts in Crossroads at Baldwin Place located at 57 Route 6. They would like to add three additional black flat mounted pin letter signs, similar to those at Stop n' Shop at 80 Route 6 in Somers Commons, in an effort to balance out signage as they have 50' frontage available, and the main sign permitted is

only 6'. The Architectural Review Board approved the main illuminated sign on the building façade over the entrance door, and support the application, but couldn't approve it because only one sign is allowed on the façade of the building. The majority thought the three additional signs created balance on such a long storefront.

Mr. Carpaneto 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Harden made a motion to approve the three additional black flat mounted pin letters signs. Mr. Newman seconded the motion.

POLL OF THE BOARD

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

The Area Variance was approved.

DYKEER WATER COMPANY, INC. – 2020:ZB21 – 16.16-3-1

An application for three Area Variances in an MFR-H District at 0 Krystal Drive. The property is shown on the Town Tax Map as Section: 16.16, Block: 3, Lot:1. RE: Section Schedule 170-13.

Kristen Barrett and Matt Hross, Engineers at Hazen and Sawyer addressed the Board. They are representing the NY Water Company owners of the GAC Treatment System located at 0 Krystal Drive in The Willows and owned by Dykeer Water Company. As a result of a new State regulation the GAC treatment plant has to be enlarged to accommodate the equipment needed to house the carbon vessels required to purify the water. The existing pump house will remain and an additional building will be built adjacent to it. Two variances are needed, one for the height and the other for the side yard of the new building. It has been determined that the third variance for the distance between the old and new buildings is not needed. The new building could not be

located in any other area due to the irregular shape of the property, utility disruptions and the need for a flat area. The additional height of the building is needed to accommodate the height of the carbon vessels and access to them. Since this is a bit of an emergency due to the health concern of the water quality, the applicant hopes to begin this project as quickly as possible.

On a side note, both buildings will be painted the same color and it is the hope of the Board that consideration be given to plant shrubs on the west side of the new building for screening purposes.

Mr. Harden 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Lansky made a motion to grant the variance of 2' for the height of the structure and a 28' variance for the side yard. Ms. D'Ippolito seconded the motion.

POLL OF THE BOARD

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

The Area Variances were approved.

Minutes – The minutes of the July 21, 2020 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on October 20, 2020 at 7:30 p.m. There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board