Telephone
(914) 277-5582

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(914) 277-3790

ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

AGENDA

November 17, 2020
7:30 PM

1. **JOEL HOFFMAN** — **2020:ZB25**
   An application for a side yard Area Variance for the placement of a generator and gas tank in an R-80 Residence District at **15 Wood Street, Katonah.** The property is shown on the Town Tax Map as **Section: 48.09, Block: 1, Lot: 8.** RE: Section Schedule 170:A1 Zoning Schedule Part 1.

2. **LAWRENCE REALTY, LLC** — **2020:ZB26**
   An application for eight Area Variances for proposed improvements to an existing facility whose tenant is Somers Sanitation, Inc. in an Office Light Industry District at **239 and 241 Route 100, Somers.** The property is shown on the Town Tax Map as **Section: 28.10, Block: 1, Lot: 7.1 and 9.** RE: Section 170-24.5.

3. **OTHER BUSINESS** — Approval of October 20, 2020 Meeting Minutes.

ZONING BOARD OF APPEALS
Town of Somers
WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589
(914) 277-6582

IN THE MATTER OF THE APPEAL
OF
Joel Hoffman

B Z NUMBER 2020:ZB25
DATE: 11/4/2020

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

I, Joel Hoffman
(Name of appellant)

whose post office address is 15 Wood Street, 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. Tooma, Jr.
(Name of officer)

Building Inspector, made on November 4, 2020
(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 an Area Variance for the placement of a gas tank and generator in an R-80 Residential District side yard

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

15 Wood Street ..... and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 48.09, Block: 1 Lot: 8

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

15 Wood Street

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

15' is needed and only 10' exists therefore a request is being made for a 5' Area Variance

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 5th DAY of Nov 2020

Denise Schirmer
NOTARY SIGNATURE

OWNER SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6253242
Qualified in Dutchess County
Commission Expires March 10, 2022

NOTARY SIGNATURE

APPLICANT SIGNATURE

Sent from my iPhone

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

Somers Sanitation, Inc.

B Z NUMBER 2020:2B26

DATE: 10/16/2020

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

1. Somers Sanitation, Inc.
(Name of appellant)

whose post office address is PO Box 297 Somers, NY
(Post office address)

through Leslie J. Snyder, Esq. of Snyder & Snyder, LLP
(Name of attorney or representative if any)

whose post office address is 94 White Plains Road, Tarrytown, NY 10591
(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 Town of Somers Planning Board
(Name of officer)

(Office held), made on October 14, 2020

which ruling was filed on ....., and notice of such ruling was first received by appellant on .....; such ruling provides that the applicant seek eight (8) area variances with respect to the proposed
(Give summary of ruling)

improvements to its existing facility, requiring relief from Section 170-24.5 of the Somers code regarding the dimensional requirements in the OLI zoning district. The variances are listed on Exhibit 1 attached hereto.

3. The property which is the subject of the appeal is located at or known as 241 Route 100, Somers, NY, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 28.10, Block: 1 Lot: 7.1 and 9

The interest of the appellant is that of Tenant
(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 .....

241 Route 100, Somers, NY (Section 28.10, Block 1, Lots 7.1 and 9)

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

See Memorandum in Support for the area variances submitted herewith.

and such may be granted pursuant to New York State Town Law 267-b and Article XIX of the Somers Code.

(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 15th DAY OCTOBER 20 20

NOTARY SIGNATURE

OWNER SIGNATURE

ANGELA M. POCCIA
NOTARY PUBLIC
STATE OF NEW YORK
Qualified in Putnam County
02PO6404795
MY COMMISSION EXPIRES March 2, 2024

NOTARY SIGNATURE

APPLICANT SIGNATURE

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

241 Route 100, Somers, NY (Section 28.10, Block 1, Lots 7.1 and 9)

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

See Memorandum in Support for the area variances submitted herewith.

and such may be granted pursuant to New York State Town Law 267-b and Article XIX of the Somers Code.

(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 15th DAY OCTOBER 20 20

ANGELA M. POCCIA
STATE OF NEW YORK
NOTARY PUBLIC
Qualified in Putnam County
02PO6404795
MY COMMISSION EXPIRES March 2, 2024

NOTARY SIGNATURE

OWNER SIGNATURE

ANGELA M. POCCIA
STATE OF NEW YORK
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MY COMMISSION EXPIRES March 2, 2024

NOTARY SIGNATURE

APPLICANT SIGNATURE

EXHIBIT 1 – LIST OF AREA VARIANCES

Based on the zoning requirements of the Office and Light Industry (OLI) District within which the subject parcels lie, the proposed facility improvements will require the following area variances from Section 170-24.5 of the Town of Somers Zoning Code (Dimensional Standards and Requirements for the OLI District):

1. Site Coverage (170-24.5(E.))
    a. Required - 60%; Proposed - 69%; Variance - 9%.

2. Building Height (170-24.5(F.)) for the Transfer Station Building
    a. Required – 30 feet; Proposed – 34 feet; Variance – 4 feet.

3. Vegetative Buffer Area Adjacent to Residential Zone (170-24.5(G.))
    a. Required – 50 feet; Proposed – 10 feet; Variance – 40 feet.

4. Side Yard (170-24.5(I.)) for the New Scale House
    a. Required – 40 feet; Proposed – 24 feet; Variance – 16 feet.

5. Side Yard (170-24.5(I.)) for the Outbound Scale
    a. Required – 40 feet; Proposed – 31 feet, Variance – 9 feet.

6. Side Yard (170-24.5(I.)) for the Parking Pavilion
    a. Required – 40 feet; Proposed – 10 feet; Variance – 30 feet.

7. Side Yard (170-24.5(I.)) for the Water Tank
    a. Required – 40 feet; Proposed – 2 feet; Variance – 38 feet.*

8. Rear Yard (170-24.5(J.)) for the Water Tank
    a. Required – 40 feet; Proposed – 2 feet; Variance – 38 feet.*

*The Water Tank is 2 feet from the 10 foot wide buffer instead of 40 feet from the 50 foot wide buffer.

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Facsimile

Victor Cannistra
Chairman

ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Meeting Minutes
October 20, 2020

Chairman Cannistra opened the meeting at 7:30 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

ANTHONY AND GUISEPPA CARINO – 2020:ZB22 – 16.10-6-4
An application for a Special Exception Use Permit for an accessory apartment in the basement of an existing one family dwelling in an R-40 Residential District at 28 Lakeview Drive, Yorktown Heights. The property is shown on the Town Tax Map as Section: 16.10, Block: 6, Lot: 4. RE: Section Schedule 170-70.

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At the request of the architect John Caro, the application has been withdrawn.

CHRISTOPHER COLUMBUS SOCIETY OF YORKTOWN, INC. – 2020:ZB23 – 26.08-2-16
An application for an Area Variance for the south side of an existing deck as well as an Area Variance for existing front 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.

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Withdrawn Application (2019:ZB33) - At the January 2020 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 thought 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 authentic 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 at the September 15, 2020 meeting. They will return when a revised plan has been created.

New Application – This evening, Christopher Columbus Society of Yorktown, Inc. returned requesting a 35.5' rear yard setback as well as a 16' side yard setback for the existing south side deck. In addition, a 15' side yard setback is needed for existing front wood steps.

President Mark Palancia and Secretary Joe Tuccito addressed the Board. Although the plans indicate the size of the deck will be 6' by 12', it will be reduced to 6' by 8'. The deck is between 1 and 1.5' off the ground and only requires railings if more than 30". There will be a step from the ground up to the deck and another step from the deck to the entrance door. The Board would like a corrected set of plans. A ramp is now included however, although encouraged, since the application didn't include a ramp, that would have to be addressed with the Building Department by securing a Building Permit and must be ADA compliant.

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 a 35.5' rear yard setback as well as a 16' side yard setback for the existing south side deck to be reduced to 6' by 8', and a 15' side yard setback for the existing front wood steps. Updated plans are also needed. 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

All three variances were approved.

REDWOOD GROUP, LLC – 2020:ZB24 – 4.20-1-8, 9 and 10

An application for an Area Variance to permit a drive thru prescription window at the proposed new CVS in a Neighborhood Shopping District at 0 Vacant, 77 and 81 Route 6, Baldwin Place. The property is shown on the Town Tax Map as Section: 4.20, Block: 1, Lot: 8, 9 and 10. RE: Section Schedule 170-21.2.

Alec Gladd, Attorney for Cuddy and Feder and Patrick O'Leary, Sr. Principal at VHB addressed the Board. The site plan was shared. A request is being made to allow for a single lane drive thru for prescription use only at this stand alone 14,000 square foot building. Across the street, there are two banks with drive thru windows. There are no other stand-alone pharmacies in the area and traffic as well as the community would not be impacted. Given COVID, many people would find this a very beneficial amenity since folks are reluctant to enter the store if they don't have to. In addition, those that are elderly, sick or handicapped would find this a safe alternative for picking up their medications. Although no one objected to including a drive thru in the building, a question came up as to whether a variance is needed as this is a permitted portion of a permitted retail use.

On a side note, it appears that passing the loading/garbage area on the side of the building as one exits would be tricky to maneuver. At the last Planning Board meeting, it was decided that the garbage area will be moved and the loading area reduced in size.

Jim Harrison of 7 James Way addressed the Board. He did have some questions/concerns all of which were answered. He thanked everyone for their professionalism in representing Somers and Mr. Harrison fully supports the project.

Mr. Lansky made a motion to deny the request for the area variance to allow for a single lane drive thru for prescription use for a proposed CVS as the Board made a determination that the drive thru is part of the permitted use in this zone as it is for retail, therefore a variance is not needed. 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

NEW BUSINESS

Mr. Tooma received a request from a resident who would like to put an accessory apartment in an accessory structure built in the 1920's that is only about 300 square feet. In doing so, they would like to expand out or up (and in doings so increasing the height of the structure) so the apartment is the 800 square foot maximum allowed. The opinion of the Board was requested. Although accessory apartments are not permitted in structures built after 1992, some thought going up would be acceptable as the footprint of the structure was not increasing. Some felt whether expanding up or out, it is still making the building bigger after 1992 determination. The overall thought was that the Town Board needs to clarify that section of the code so it is more definitive.

Minutes – The minutes of the September 15, 2020 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on November 17, 2020 at 7:30 p.m. There being no further business, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board