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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

January 19, 2021

Chairman Cannistra opened the meeting at 7:35 p.m. with the Pledge of Allegiance.

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

Mr. Carpaneto and Mr. Harden were absent.

Building Inspector Tom Tooma and interested residents were also present.

The meeting was held remotely via Zoom.

APPLICANTS

ANTHONY AND GUISEPPE CARINO – 2020:ZB22 (CARRYOVER) – 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.

Architect John Caro addressed the Board. The applicants are seeking a Special Exception Use Permit to create a one-bedroom accessory apartment in the basement and garage of their existing one family dwelling. It is their intention to live in the apartment while their daughter lives on the main floor. The house was built in 1989 and the property is 60,000 square feet. The proposed apartment is 784 square feet and will have a window in the bedroom, door out to the driveway, door out of the kitchen into the yard, and a staircase to the main floor. The total bedroom count will remain at 4. Department of Health approval will be needed before the Building Permit can be issued. The Building Inspector has visited the property and found it to be compliant.

Ms. D'Ippolito 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

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

Ms. D'Ippolito made a motion to approve the Special Exception Use Permit for an accessory apartment in the basement and garage of an existing one family dwelling, to be renewed in 7 years, provided that Health Department approval is given. Mr. Newman 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

ALBERT AND FLORENCE LEE – 2021:ZB01 – 27.18-1-14

An application for a Special Exception Use Permit to keep a maximum of 18 small animals such as poultry and mature cockerels when it can be demonstrated that adequate safeguards have been taken to ensure there is no disturbance to neighboring residences of an existing one family dwelling in an R-80 Residential District at 56 Lake Road, Katonah. The property is shown on the Town Tax Map as Section: 27.18, Block: 1, Lot: 14. RE: Section Schedule 170-69 B (6) and C.

Mr. Lee addressed the Board. A letter, numerous pictures and a survey with various measurements were submitted to the Board members, which were reviewed and discussed. In March 2020, he began the process of bringing chickens, ducks and turkey to his property. Currently 17 birds exist (ducks, hens and turkey) and this has now become a hobby and experiment for him. Existing is housing (which doesn't need a permit), a duck pond, and poultry that are fenced in with netting on top. Beyond their netting is a deer fence around the perimeter of the property. Although Mr. Lee's property is heavily wooded, in October a neighbor complained about the noise the roosters (3 of them) that were on the property were making. In an effort to reduce the

noise, choke collars were put on them, which didn't eliminate all the noise. At present there are no roosters on the property.

Mr. Lee is requesting a Special Exception Use Permit to allow for eventually no more than 30 poultry, including roosters that will have choke collars on them as they are essential to the hierarchy and warn for predators. In his opinion he certainly has enough property to accommodate this request and is very respectful of the environment.

It was noted that up to 6 of these types of small animals are permitted as per the Code in an R-80 Residential Zone and a maximum of 18 could be allowed with the issuance of a Special Exception Use Permit. Although the application is for a Special Exception Use Permit, the additional request would require two variances, one to have over 18 small animals and the other to allow roosters. In addition, turkeys are not included in the example of which small animals are permitted. All were reminded that not long ago, an amendment was made to the Code indicating that a mature cockerel is when they begin to crow.

Gene Jones of 8 Manor Lane addressed the Board. He lives closest to Mr. Lee, behind him, and is also down-wind from his property. Mr. Jones feels he has been the most affected by this newly created project, which has caused serious issues for he and his wife. They are unable to sit on their back deck or leave their windows open as the sudden noise from the roosters has caused his wife to go into a-fib as a result of her heart condition which recently resulted in her having open heart surgery. A few times a week, late in the evening a light comes on and someone is blowing a whistle for quite some time. The ducks frequently get agitated and in doing so cause a lot of noise. There is also an odor from time to time. Mr. Jones feels as though all of this is an invasion on his right for peace and quiet. He is not asking that the animals be removed, but would however like an amicable compromise.

Damon Craig, Mr. Lee's son-in-law addressed the Board. As a result of COVID, he along with his wife and daughter are now living with the Lees. His father-in-law has become very involved and dedicated to the raising of these birds. He confirmed that there have been no roosters on the property since the end of October, after which, they did loose a bunch of hens from predators. Although turkeys are not permitted, without roosters the turkey will help in keeping the predators away. Since the property is over 2 acres, in his opinion there should not be an issue with the number of poultry they want to have. The eggs are collected for consumption and are also shared with the neighbors, all of whom are happy to have them. None of the immediate neighbors have ever expressed an issue with the poultry and are actually happy to have them nearby. In his opinion, Mr. and Mrs. Jones seem to have a super noise sensitivity and have even complained about his now deceased dog when it was barking. Mr. Craig thought perhaps what the Jones' have been hearing is the many ducks and geese on the reservoir across the street.

Joe Santoro of 58 Lake Road addressed the Board. He echoed what Mr. Craig said. He is home most of the time and has never been disturbed by noise or smell. He

enjoys having the animals next door. Mr. Santoro would have no objections for up to 30 small animals at Mr. Lee's home.

Joe DePaul of 1 Douglas Lane in New Fairfield, Connecticut addressed the Board. He is the Zoning Board of Appeals Chairman in New Fairfield and assisted Mr. Lee in completing his application. Mr. DePaul stated that Mr. Jones' house is a considerable distance from Mr. Lee's as indicated on the survey submitted. There is more than adequate square footage and setbacks.

Robert Ball of 4 Manor Lane addressed the Board. He is not in favor of the application. In his opinion, Mr. Lee should have referred to the Code before he embarked on this venture instead of submitting an application to the Zoning Board. Mr. Ball feels as though the small animals that already exist on Mr. Lee's property are a nuisance and create a lot of noise. He went on to say that having a zoo in their neighborhood is not an appropriate place for it.

Mr. Lee readdressed the Board. He is not trying to cause a problem, but he does have the right to live in a way that is going to make him happy and wants to comply. The whistle sounding is part of the training done two to three times a week to teach the poultry to return after being let out to graze in the area enclosed by the perimeter deer fencing. He told the Board he receives many compliments about his poultry area by people walking by.

Mr. Craig readdressed the Board. The facilities for the poultry are well kept and in compliance. The noise is at a minimum, and certainly quieter than the loud music that is often played in the neighborhood, as well as barking dogs.

Mr. Jones readdressed the Board. He feels as though he is under attack. Prior to this project he has never complained to Mr. Lee. All he wants is peace and quiet so he can enjoy his back yard, and keep his wife healthy. He urged the Board not to allow Mr. Lee to expand on the number of small animals existing.

Mr. Lee addressed the Board again stating that as per the Code, on properties existing of 40,000 square feet, 6 poultry are allowed and 80,000, which he has, allows 12. If he wants more than 12, a Special Exception Use Permit is required. Mr. Tooma responded that he doesn't necessarily interpret the Code in the same way.

A discussion ensued amongst the Board members as to how they each individually felt about the proposed application.

Chairman Cannistra reminded everyone that the Code has to be followed and the exceptions should be limited. Keeping harmony is also important. In the past, there have been applications similar to this one and the outcome was always that roosters were a nuisance due to the amount of noise they make.

Mr. Guyot 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

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

Mr. Newman made a motion to grant a Special Exception Use Permit to allow 18 small animals limited to ducks, chickens, and two existing turkeys which shall not be replaced, and that the number of ducks will be limited to a maximum of six. The applicant will be granted 60 days to comply with the limit on the number of ducks. Geese and mature cockerels are not permitted. All other relevant aspects of the Code related to the keeping of small animals must be in compliance. Ms. D'Ippolito 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

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

The next monthly meeting of the Zoning Board of Appeals will be held on February 16, 2021 at 7:30 p.m. There being no further business, the meeting was adjourned at 9:10 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board