

Telephone  
(914) 277-5582

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## ZONING BOARD OF APPEALS

# Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589



## AGENDA

June 15, 2021  
7:30 PM

1. **CHRISTINE  
CRUISIUS-SMITH**

**2021:ZB07 (CARRYOVER)**

An application for an Area Variance for lot coverage for both the principal building additions and accessory improvements to an existing one family dwelling in an R-40 Residential District at **21 Lynway Lane, Somers**. The property is shown on the Town Tax Map as **Section: 17.10, Block: 1, Lot: 64**. RE: Section Schedule: 170-40A.

2. **JUDY GARRETTO**

**2021:ZB08**

An application for a 4' front yard Area Variance for the installation of a new two-car detached modular garage to an existing one family dwelling in an R-10 Residential District at **8 Horton Drive, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 16.17, Block: 2, Lot: 14**. RE: Section Schedule 170: A1 Zoning Schedule Part 1.

3. **JOHN AND NORA  
MACKEY**

**2021:ZB09**

An application for a 9' rear yard 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.

4. **OTHER BUSINESS**

May 18, 2021 Meeting  
Minutes

Next Meeting, July 20, 2021



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

Christine Crusius-Smith

B Z NUMBER 2020: ZB07

DATE: 4/19/21

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

1. Christine Crusius-Smith

(Name of appellant)

whose post office address is 21 Lynway Lane, Somers, NY 10589

(Post office address)

through David Tetro, Architect P.C.

(Name of attorney or representative if any)

whose post office address is 302 New 13 Avenue, Yorktown Heights, NY

(Post office address)

10598

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a ruling of Thomas S. Tooma, Jr.

(Name of officer)

Building Inspector, made on April 6, 2021

(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 lot  
coverage for both the principal building  
additions and accessory improvements in  
an R-40 Residential District

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

21 Lynway Lane

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

Town Tax Map as Section: 17.10, Block: 1, Lot: 64

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 .....

21 Lynway Lane

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

A variance is needed for both the principal and accessories as indicated on the plan prepared by David Tetton, Architect P.C.

and such may be granted pursuant to 170-40A

(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

19th

DAY

April

20-21

NOTARY SIGNATURE

OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
No. 0188798242

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

Judy Garretto

B Z NUMBER 2021:EB08

DATE: 5-28-2021

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

1. Judy Garretto

(Name of appellant)

whose post office address is 8 Horton Drive, Yorktown Heights, NY 10598

(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 L. Tocina, Jr.

(Name of officer)

Building Inspector made on April 15, 2021

(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 a 4' area variance for the installation of a new two-car detached garage modular-front yard

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

8 Horton Drive in an R-10 Zone, and is shown on the

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

Town Tax Map as Section: 16.17 Block: 2 Lot: 14

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.....

8 Horton Drive

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

25' is needed and only 21 exists  
relief sought is 4'

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

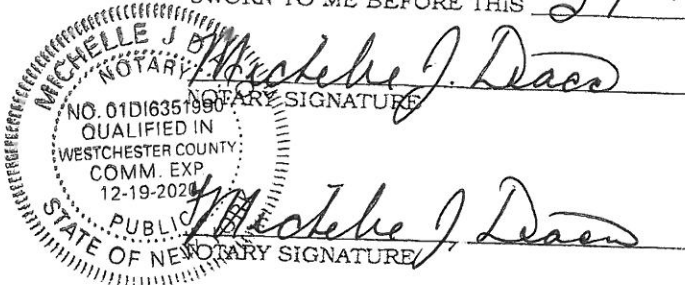
(Refer to applicable Provisions of the Zoning Ordinance of the Town of Somers)

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 27<sup>th</sup>

DAY May 2021



Michelle J. Deane  
NOTARY SIGNATURE

Judy Garretto  
OWNER SIGNATURE

JOE GARRETTO

- JAE -  
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

John and Nora Mackey

B Z NUMBER 2021-2809

DATE: 5-28-21

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

1. Nora Mackey

(Name of appellant)

whose post office address is

49 Hallocks Run, Somers, NY 10589

(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

(Office held)

made on April 28, 2021

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 a 9' area variance  
for a new deck - rear yard

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

49 Hallocks Run in an R-80 Zone

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

Town Tax Map as Section: 28.05, Block: 1, Lot: 47

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 .....

49 Hallocks Run

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

30' is required - 21' is proposed - relief of 9' needed - already given a variance of 7' on March 17, 2021 - requesting an additional 2'

and such may be granted pursuant to 170:171 of the 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 28<sup>th</sup> DAY May 20 21

Denise Schirmer  
NOTARY SIGNATURE

Kara Wheeler-Mackey  
OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
NY 91 SC6298242  
Qualified in Dutchess County  
Commission Expires March 14, 2022

APPLICANT SIGNATURE



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Facsimile

## ZONING BOARD OF APPEALS

### Town of Somers

WESTCHESTER COUNTY, N.Y.

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SOMERS, NY 10589

Victor Cannistra  
Chairman



### Meeting Minutes May 18, 2021

Chairman Cannistra opened the meeting at 7:30 p.m. with the Pledge of Allegiance.

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

Mr. Carpaneto was absent.

Building Inspector Tom Tooma and interested residents were also present.

The meeting was held remotely via Zoom.

### APPLICANTS

#### **JOHN AND CARMEN CARWAY – 2021:ZB02 – 17.08-2-1 (CARRYOVER)**

An application for the renewal of a Special Exception Use Permit for an existing accessory apartment attached to an existing one family dwelling in an R-40 Residential District at 8 Old Croton Falls Road, Somers. The property is shown on the Town Tax Map as Section: 17.08, Block: 2, Lot: 1. RE: Section Schedule 170-170.

At the February 16<sup>th</sup> meeting, Carmen Carway addressed the Board and reported that the accessory apartment was currently occupied, but her tenants would be moving shortly. Building Inspector Tooma inspected the accessory apartment on January 26<sup>th</sup> and it was determined that since the last inspection 7 years ago, an archway opening was made in a wall of the apartment leading to a 3-season room without securing a Building Permit. Mrs. Carway had no idea that a permit was required for that type of work. She is in the process of securing architectural plans for the alteration from the architect who did the plans for the 3-season room. She would like to keep the archway opening. A minimal amount of electrical work was done as well. In the meantime,

arrangements will be made with the contractor who did the work to open up the ceiling so Mr. Tooma can conduct an inspection.

At the March 16<sup>th</sup> meeting, Mr. Tooma reported that since the last meeting, a section of the wall board made between the accessory apartment and existing 3 season room was removed to get a look at what was inside. He did a site visit, and took some notes. The applicants retained an architect who will supply a letter indicating that the archway structurally exceeds what is mandated by State code. Once the letter and plans have been received, a Building Permit to legalize the work done will be issued.

This evening, Mrs. Carway reported that a Building Permit to legalize the work done was issued. An electrical inspection was done, a letter of certification from the architect was received, Mr. Tooma inspected and a Certificate of Occupancy was issued. The overall square footage of the accessory apartment is now 858, which is 58 square feet over what is permitted. A variance will be needed.

The accessory apartment meets all code requirements, and there have been no complaints. The septic tank was cleaned in October 2020.

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**

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 58 square feet variance for the accessory apartment as the maximum size that it can be is 800 square feet and it is 858 square feet. Mr. Harden 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

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**

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 approve the renewal of the Special Exception Use Permit for an existing one-bedroom accessory apartment attached to an existing one family dwelling, to be renewed in 7 years. Mr. Guyot 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

#### **RAMANAND AND ANDREA LUKEE – 2021:ZB06 – 48.17-1-16**

An application for the renewal of a Special Exception Use Permit as a new owner for an existing accessory apartment in a detached structure to an existing one family dwelling in an R-80 Residential District at 20 South Lane, Katonah. The property is shown on the Town Tax Map as Section: 48.17, Block: 1, Lot: 16. RE: Section Schedule 170-70.

Andrea Lukee addressed the Board. The apartment is currently empty, but it would be rented to no more than 2 people. Building Inspector Tom Tooma inspected the two-bedroom apartment on April 19<sup>th</sup> and there have been no changes and it is as per originally approved. It meets all code requirements, and there have been no complaints or violations. The septic tank was cleaned in August 2020. There is a basement that houses the mechanical equipment and storage. Based on the floor plans, it was estimated by Mr. Newman that the apartment was a little over 1,000 square feet.

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**

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 approve the renewal of the Special Exception Use Permit for an existing two-bedroom accessory apartment in a detached structure to an existing one family dwelling, to be renewed in 7 years. Mr. Harden 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

#### **CHRISTINE CRUISIUS-SMITH – 2021:ZB07 – 17.10-1-64**

An application for an Area Variance for lot coverage for both the principal buildings additions and accessory improvements to an existing one family dwelling in an R-40 Residential District at 21 Lynway Lane, Somers. The property is shown on the Town Tax Map as Section: 17.10, Block: 1, Lot: 64. RE: Section Schedule 170-40A.

Mr. Guyot is recusing himself from this application.

Architect David Tetro addressed the Board. This application is similar to the one submitted to the Zoning Board of Appeals on June 11, 2019, but some changes have been made to the project. A new driveway will not be necessary as the existing one will be extended. The proposed location of the three-car garage has been moved to the left of the house, and a dining room will be added to the back of the house and it will be surrounded by a deck. The deck is 2' off the ground, level with the house and is replacing an existing patio. The amendments made have resulted in significant



increase in lot coverage. The Code says only 6% of the lot can be occupied. Even if the garage were made smaller or removed from the house that percentage would not change significantly. Unfortunately, the allowable site coverage could not be determined. Mr. Tetro discussed this prior with Building Inspector Tom Tooma who has interpreted the code as meaning that the lot coverage includes driveways (paved or unpaved), walkways and decks (including patios). Mr. Lansky said that although he is not challenging Mr. Tooma's interpretation, it makes absolutely no sense. The percentage for neighboring towns is more than double of the Town of Somers requirement, which is very restrictive. The majority felt it is a very significant variance, however Mr. Tetro said the design and amount of construction required is necessary to the applicant. The applicants husband Michael Smith said that at any given time, they could have all of their eight children at their home at the same time and these changes are necessary so there is really no lesser way to go about this project. He is also giving more consideration to his neighbors with this amended plan as they will not be looking at a driveway, garage and cars. Overall, the Board was bewildered about making a decision on this application as the variance being proposed is very large. Although in the case, the ruling may not make sense, the Board is responsible to interpret the law, not change it. It was suggested that the Town Attorney be consulted and asked for a legal interpretation whether driveways, walkways and decks are considered in lot coverage. The application was adjourned to the June 15<sup>th</sup> meeting.

**Minutes** – The minutes of the April 20, 2021 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on June 15, 2021 at 7:30 p.m. There being no further business, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board