

Telephone
(914) 277-5582

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(914) 277-3790

ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



AGENDA

July 20, 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 (CARRYOVER)**
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. **KYLE KONZE AND
JORDAN SMITH** **2021:ZB10**
An application for the renewal of a Special Exception Use Permit as new owners for an existing accessory apartment attached to an existing one family dwelling in an R-80 Residential District at **82 Lake Road, Katonah**. The property is shown on the

Town Tax Map as **Section: 27.10, Block: 1, Lot: 20.1**. RE: Section Schedule 170-70.

4. **PAUL AND ELAINE
GREGUS**

2021:ZB11

An application for an Area Variance for the height of an existing fence to an existing one family dwelling in an R-40 Residential District at **37 Raemont Road, Granite Springs**. The property is shown on the Town Tax Map as **Section: 27.13, Block: 1, Lot: 21.1**. RE: Section Schedule 170-49.

5. **HERITAGE HILLS
SOCIETY, LTD.**

2021:ZB12

An application for an Area Variance for propane tanks, as well as placing them underground in a DRD District at **8 Heritage Hills Drive, Somers**. The property is shown on the Town Tax Map as **Section: 17.06, Block: 10, Lot: 16**. RE: Section Schedule 170-32.7H.

6. **OTHER BUSINESS**

June 15, 2021 Meeting
Minutes

Next Meeting, September 21, 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 Cruisius-Smith

B Z NUMBER 2019: ZB19
DATE: 5/3/19

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

1. Christine Cruisius-Smith
(Name of appellant)

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

through David Tetro, Architect
(Name of attorney or representative if any)

whose post office address is 302 Lewis Avenue, Yorktown Heights, NY 10578
(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. Toonka, Jr.
(Name of officer)

Building Inspector made on April 24, 2019
(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 Area Variance for improvements to the
applicant's property as indicated on a
plan prepared by David A. Tetro dated
May 1, 2019 for lot coverage for both
principal building additions (1,689 sq. ft.)
and accessory improvements as well (1,313 sq. ft.)
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 _____, and is shown on the
(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:

For the principal - 2,531 sq. ft. is allowed and 4,220 sq. ft. is being proposed. For the accessory - 1,265 sq. ft. is allowed and 2,578 sq. ft. being proposed.

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 3rd DAY May 20 19

Denise Schirmer NOTARY SIGNATURE

as OWNER SIGNATURE

DENISE SCHIRMER Notary Public State of New York No. 01SC6298242 Qualified in Dutchess County 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
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 J. Toole, 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'

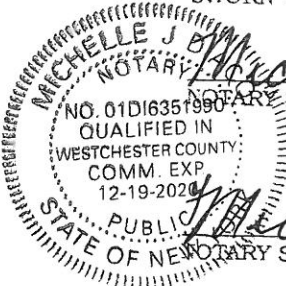
and such may be granted pursuant to 170: A1 of the Zoning
Schedule Part 2

(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 27th DAY May 2021



Michelle J. Deaco
NOTARY SIGNATURE

Judy J. ...
OWNER SIGNATURE

JOY GARRETTO

Michelle J. Deaco
NOTARY SIGNATURE

- SALE -
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
*Kyle Konze and
Jordan Smith*

B Z NUMBER *2021:2B10*
DATE: *6/15/21*

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

1. *Kyle Konze and Jordan Smith*
(Name of appellant)

whose post office address is *5 Two Penny Lane, 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
(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)
*An application for a Special Exception Use
Permit to renew as a new owner
of an existing attached 2-bedroom,
2-story accessory apartment to an
existing one family dwelling.*

3. The property which is the subject of the appeal is located at or known as
82 Lake Road - R-80 Zone and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: *27.10*, Block: *1*, Lot: *20.1*

The interest of the appellant is that of *owners*
(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

82 Lake 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 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 15th DAY of June 2021

[Signature]
NOTARY SIGNATURE

[Signature]
NAGAT FARAG OWNER SIGNATURE

NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01FA6340293
Qualified in Westchester County
My Commission Expires April 18, 2024

[Signature]
NOTARY SIGNATURE

[Signature]
APPLICANT SIGNATURE

NAGAT FARAG
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01FA6340293
Qualified in Westchester County
My Commission Expires April 18, 2024



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
Paul + Elaine Gregus

B Z NUMBER 2021:ZB11
DATE: 6/21/2021

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

1. Paul and Elaine Gregus

(Name of appellant)

whose post office address is 37 Raennot Road, Granite Springs, NY
(Post office address) 10527

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 Robert Russell

(Name of officer)

Code Enforcement Officer made on May 24, 2021

(Office held)

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

(Give summary of ruling)

Existing fencing exceeds 6' and the
owners would like it to remain as
is so a variance is being sought

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

37 Raennot Road - R-4D Zone

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

Town Tax Map as Section: 27.13, Block: 1, Lot: 21.1

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.....

37 Racount Road

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

As per the Code of the Town of Somers, a fence cannot exceed 6'

and such may be granted pursuant to 170-49

(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 7 DAY June 20 21

Notary Signature: Ronald J. Macellaro, Notary Public, State of New York, No. 01MA5086877, Qualified in Westchester County, Term Expires October 27, 21

Owner Signature: [Handwritten Signature]

Notary Signature: Ronald J. Macellaro

Applicant Signature: [Handwritten Signature]

RONALD J. MACELLARO, Notary Public, State of New York, No. 01MA5086877, Qualified in Westchester County, Term Expires October 27, 21



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
Heritage Hills Society, Ltd.

B Z NUMBER *2021: ZB12*
DATE: *6/28/2021*

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

1. *John Milligan*
(Name of appellant)

whose post office address is *8 Heritage Hills Drive, 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. Toomey, Jr.*
(Name of officer)
Building Inspector, made on *May 27, 2021*
(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 propane tanks, as well as placing
them underground in a DRD District*

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

8 Heritage Hills Drive
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: *17.06*, Block: *10*, Lot: *16*

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 Heritage Hills Drive

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

The storage of hydro carbon products, except those used (propane tanks) are prohibited in the District.

and such may be granted pursuant to 170-32.7H

(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 28th DAY June 20 21

Denise Schirmer NOTARY SIGNATURE

OWNER SIGNATURE

DENISE SCHIRMER Notary Public State of New York No. 01SC6298242 NOTARY SIGNATURE Dutchess County Commission Expires March 10, 20 22

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

June 15, 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

CHRISTINE CRUISIUS-SMITH – 2021:ZB07 – 17.10-1-64 (CARRYOVER)

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.

At the May 18, 2021 monthly meeting, 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 applicant's 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.

Mr. Cannistra requested a legal interpretation from the Town Attorney after the last meeting. His response was that driveways, walkways and decks are to be included in lot coverage calculations. Given that interpretation, the variance being requested in this application is significantly over the 6% allowed.

Mr. Lansky respectfully disagrees and said this interpretation does the public a disservice and would result in most properties needing a variance. Building coverage is not lot coverage. The Code needs to be interpreted. Mr. Cannistra reminded him that the Building Inspectors interpretation will stand as the Board doesn't have the authority to interpret it.

Ms. D'Ippolito agrees with Mr. Lansky. The variance being requested is very large. She doesn't feel comfortable approving the variance and doing so would set a precedent. If site coverage is synonymous with lot coverage, there is something amiss with the Zoning Schedule. It should be building coverage, not site coverage. In her opinion, the Town Board needs to resolve this discrepancy.

Mr. Newman asked if Mr. Tooma has run into similar situations. This interpretation may cause some not to do a project or are now in violation. Mr. Tooma said he has and this part of the Code is very restrictive as compared to other neighboring communities. Mr. Newman would like to see the Town Board clarify this section of the Code.

Architect Mr. Tetro said he does a lot of zoning work and in general the percentages are no less than 15% with some being as much as 70%.

Mr. Cannistra is of the opinion that the Zoning Board should send a memo to the Town Board requesting that they address this situation.

In June 2019, the applicant submitted an application similar to the one before the Board this evening, but the request was for a variance of 23.2%. Although also still quite a bit more than 6%, the Board didn't feel it was significant enough to set a precedent.

The applicant Michael Smith confirmed that both the Town Attorney and Building Inspector concur that the principal building includes decks, porches, walkways and driveways, paved or not. He pointed out that their 2019 application included tearing up the existing driveway and now the new three-car garage will be on the opposite side of the house and the driveway will remain. The footprint in 2019 was much larger and now the size of the house has been condensed. Mr. Smith is having difficulty in understanding why the driveway is posing an issue. Mr. Cannistra echoed that the Board is struggling with it as well, but the Code has to be followed. Mr. Smith asked if the variance granted for the application in 2019 was still in effect, and it is. He said that perhaps he should just move forward with that plan then. Mr. Smith asked if the three-car garage were not attached if that would make a difference and it really wouldn't because an accessory building in an R-40 zone would only allow for another 3%.

In Mr. Lansky's opinion, the options are as follows: make a decision based on the Code interpretation presented; re-design the project; withdraw the application; see if once the situation is addressed with the Town Board, a change is made to the Code; or move forward with the existing variance from 2019.

Mr. Newman would like to see a memo to the Town Board about this situation expedited as quickly as it can.

Mr. Smith would like his application carried over to the July 20th meeting.

JUDY GARRETTO – 2021:ZB08 – 16.17-2-14

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 on the Town Tax Map as Section: 16.17, Block: 2, Lot: 14. RE: Section Schedule 170: A1 Zoning Schedule Part 1.

Mrs. Garretto addressed the Board. There is currently a paved area where they park their cars and they would like to put a modular two-car garage in that area to keep the cars covered. The requirement is 25' and they only have 21' so therefore are requesting a 4' front yard variance. She went on to say that there is really no other spot for the garage as the perimeter of the property is fenced in with a wrought iron fence with a gate at the entrance and there is a very large maple tree, which they do not want to remove. The septic is behind the maple tree as well. The garage is one story with electric. There is no basement and it will not include any plumbing. The siding on the garage will match that of the house and existing shed. Mrs. Garretto spoke to the

neighbor on the side of the house where the garage would be located, and he had no objections. There is also a 25' pine tree between the two properties.

Mr. Guyot would like the opportunity to do a site visit.

Ms. D'Ippolito is not enthused about putting a garage in the front yard, the back yard would be preferable and she too would like to do a site visit.

Mr. Lansky said although a 4' variance request is reasonable he too would like to see it in the back yard versus the front yard and is also in favor of a site walk.

Mr. Newman said a garage in the front yard could impact the characteristic of the neighborhood and issuing the variance, although not large, could set a precedent. He too thought doing a site visit was a good idea.

The application will be carried over to the July 20th meeting.

JOHN AND NORA MACKEY – 2021:ZB089– 28.05-1-47

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 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. In April 2020, they submitted an application for a 7' rear yard Area Variance for a new deck, which was granted. As the deck was being constructed, they decided to extend it another 2' so are now requesting a rear yard variance totaling 9'. The Somers Chase HOA as well as the only neighbor had no objections. In addition, there are 40' dense hemlock trees bordering the property. The Planning and Engineering Department was consulted and they had no objections to this request.

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 approve the 9' rear yard variance for a new deck. 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

Minutes – The minutes of the May 18, 2021 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on July 20, 2021 at 7:30 p.m. There being no further business, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board