

Telephone
(914) 277-5582

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ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



AGENDA

March 15, 2022
7:30 PM

1. **ALBERT AND ANN CUSANO**
2022:ZB03
An application to renew a Special Exception Use Permit for an existing accessory apartment in an existing one family dwelling in an R-40 Residential District at **18 Watergate Drive, Amawalk**. The property is shown on the Town Tax Map as **Section: 26.20, Block: 2, Lot: 52**. RE: Section Schedule: 170-70.

2. **JAMES AND HOPE MAZZOLA**
2022:ZB04
An application to renew a Special Exception Use Permit for an existing accessory apartment on the 2nd floor of a detached garage to an existing one family dwelling in an R-80 Residential District at **27 Valley Pond Road, Katonah**. The property is shown on the Town Tax Map as **Section: 27.11, Block: 2, Lot: 11**. RE: Section Schedule: 170-70.

3. **ANDREA MATTEIS**

2022:ZB05

An application for a deck addition for less than the required lot size; rear yard setback; building coverage and site coverage to an existing one family dwelling in an R-10 Residential District at **18 Carpenter Place, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 16.10, Block: 5, Lot: 26**. RE: Section Schedule: 170:A1 - Zoning Schedule Part 1.

4. **OTHER BUSINESS**

January 18, 2022 Meeting Minutes

Next Meeting – April 19, 2022



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
Albert + Ana Cusano

B Z NUMBER *2022: ZB03*
DATE: *2/11/2022*

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

1. *Albert and Ana Cusano*
(Name of appellant)

whose post office address is *18 Watergate Drive, Armonk, NY 10501*
(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

(Give summary of ruling)
*An application to renew a Special
Exemption Use Permit for an accessory
apartment in the basement of an
existing dwelling in an R-40 zone*

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

18 Watergate Drive and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: *26.20*, Block: *2*, Lot: *52*

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

18 Wadewegale Drive

(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 Somers a Special Exception Use Permit is required to have 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 11th DAY February 20 22

Denise Schirmer NOTARY SIGNATURE

Albert Cusano OWNER SIGNATURE

Ann Cusano Ann Cusano

DENISE SCHIRMER Notary Public, State of New York Qualified in Dutchess County Commission Expires 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

James and Hope Mazzola

B Z NUMBER 2022:ZB04

DATE: 2/16/2022

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

1. James and Hope Mazzola
(Name of appellant)

whose post office address is 27 Valley Road Road, Katonah, NY
(Post office address)

through 10536
(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 to renew a Special
Exception Use Permit for an accessory
apartment on the 2nd floor of a
detached garage to an existing
on family dwelling in an R-80 zone

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

27 Valley Road Road and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 27.11, Block: 2 Lot: 11

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

27 Valley Pond 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 Special Exception Use Permit is requested to have an Accessory Apartment

and such may be granted pursuant to 170 - 7D

(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 16th DAY February 20 22

Denise Schirmer NOTARY SIGNATURE

OWNER SIGNATURE

DENISE SCHIRMER Notary Public State of New York No. 01506238242

NOTARY SIGNATURE Commission Expires March 10, 20 22

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
ANDREA MATTEIS

B Z NUMBER 2022:2B05
DATE: 2/24/2022

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

1. ANDREA MATTEIS
(Name of appellant)

whose post office address is 18 CARPENTER PL. YORKTOWN HTS NY 10598
(Post office address)

through BOB EBERTS, CROSS RIVER ARCHITECTS LLC
(Name of attorney or representative if any)

whose post office address is P.O. BOX 384, CROSS RIVER, NY 10518
(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 TOM TOOMA
(Name of officer)

BUILDING INSPECTOR, made on
(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 A DECK ADDITION TO AN
EXISTING ONE FAMILY DWELLING FOR:

- 1) LESS THAN THE REQUIRED LOT SIZE
- 2) REAR YARD SETBACK
- 3) BUILDING COVERAGE
- 4) SITE COVERAGE

3. The property which is the subject of the appeal is located at or known as
18 CARPENTER PLACE, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 16.10, Block: 5 Lot: 26

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

18 CARPENTER PLACE

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

LOT SIZE - 10000 SF REQUIRED, 9,750 SF EXISTS, 250 SF VARIANCE NEEDED

REAR YAKO - 25' REQUIRED, 21.53' EXISTS, 13.53' VARIANCE NEEDED

BLDG COVERAGE - 20% PERMITTED, 24.15% EXISTS, 7.79% VARIANCE NEEDED

SITE COVERAGE - 40% PERMITTED, 40.7% EXISTS, 4.37% VARIANCE NEEDED.

and such may be granted pursuant to.....


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

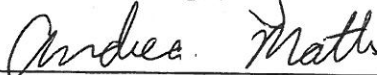
JIMMY J RUANO
Notary Public - State of New York
No. 01RU6386873
Qualified in Westchester
My Commission Exp. 02/04/2023


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 25 DAY February 20 22


NOTARY SIGNATURE


OWNER SIGNATURE


NOTARY SIGNATURE


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
January 18, 2022

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. Harden was absent.

Building Inspector Tom Tooma and interested residents were also present.

APPLICANT

JOSEPH AND TRISHIA SPALLINA – 2022:ZB01 – 37.13-3-1

An application for less than the required lot size for the construction of a swimming pool and a variance for a section of the height of a fence to an existing one family dwelling in an R-120 Residential District at 2565 Route 35, Katonah. The property is shown on the Town Tax Map as Section: 37.13, Block: 3, Lot: 1. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Joe Spallina addressed the Board. He would like to install an inground swimming pool on his property but it predates the zoning codes. The house was built in 1825 and the current parcel has been as such since 1930. His property is in an R-120 district, but his lot is 56,000 square feet. As a result, he is in need of a variance for lot coverage. Although Mr. Lansky didn't necessarily agree with the need for a lot coverage variance, he agreed to move on with the application this evening, but to seek the Town Attorney's opinion on this matter.

In addition, Mr. Spallina needs a variance for an 80' section of fencing that sits adjacent to a stone wall on the perimeter of his property, part of which enclosing his pool, that is

8' feet high. There are no close neighbors on either side of the property and it is very secluded.

Mr. Guyot 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

Mr. Newman made a motion to approve the variance for lot size for the construction of an inground swimming pool as the lot is pre-conforming and to approve the height variance of 2' for an 80' section of fence. 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 area variances were approved.

PATRICIA BERG – 2022:ZB02 – 17.20-1-7 and 8

An application to appeal the determination made by the Code Enforcement Officer in an R-10 Residential District at 4 and 6 Crest Way, Purdys. The properties are shown on the Town Tax Map as Section: 17.20, Block: 1, Lot: 7 and 8. RE: Section Schedule 170-110.

Attorney Andrew Brodnick addressed the Board. His client Patricia Berg lives at 4 Crest Way and the property at 6 Crest Way sold in 2019. Since it has been sold, the house is unoccupied, a lot of exterior work has been done on the property to include grading and tree removal, in addition, it is being used for the storage of commercial equipment (bobcat and flatbed trailer), two trucks, materials (cement blocks, Belgium blocks, cut wood and mulch), and dumping of materials used as fill. In addition, the owner of 6 Crest Way installed a fence that is 8' at points and was not installed properly. In his opinion, what is happening is a blatant violation of the Code, an eyesore as it is overwhelming to see, and as the house is not occupied the property is being used as

storage. His client would like to overturn the decision made by the Code Enforcement Officer as he has indicated that there are no violations, Mr. Brodnick respectively disagrees and would like violations issued to the owner of 6 Crest Way.

Code Enforcement Officer Robert Russell addressed the Board. For many years, 6 Crest Way fell into a state of disrepair and the current owners bought it with the understanding that they would have to demo the dwelling if necessary or rehabilitate the dwelling and property. In Mr. Russell's opinion, the commercial equipment, two trucks, materials and the fill are necessary in order to rehabilitate the property that includes tree removal, grading, filling and a Belgium block pathway. He went on to say that there is nothing in the Code that prohibits any of these items to be on a residential property. If the work that goes on doesn't meet the Code noise ordinance, then that would be an issue. In addition, Mr. Russell said that the Code does not reference the amount of time someone must occupy a dwelling.

Building Inspector Tom Tooma addressed the Board. He was informed by the applicant that there was some concern about erosion and water run-off. The Planning and Engineering Department investigated and determined that no permits were necessary. He believes a report was received by a fence company stating that the fence was not unsafe.

Mr. Brodnick asked if any permits were issued for interior renovations to the dwelling. He was told that would have to be checked for in the Building Department. Mr. Brodnick said the Code is explicit about what can be done. A home occupation vehicle has to be parked inside. If everyone did this, it would impact the community. In his opinion, the owner of 6 Crest Way is flaunting the Code and it is not being properly addressed by the Zoning Department. Mr. Russell responded by saying there is not a home occupation being run from the property and the Code does not limit the number of licensed, operable vehicles that can be on ones' property.

Mr. Lansky asked if all the photos submitted were taken on December 17th, because they all didn't look like they were taken on December 17th. That is the date that they were printed. Mr. Lansky said that although the equipment hasn't moved since the fall, there is no expiration of the zoning code as per the State of New York. He also asked how Mr. Brodnick proposes that the fence height be measured. Mr. Lansky pointed out that there was a footnote in Mr. Brodnick's submission claiming adverse possession and he is not sure why that was included in the Board member's packets of information.

Mr. Newman said that the dumping of debris was mentioned which is not evident as chopped wood, a mulch pile and concrete as well as Begium blocks are not considered debris in his opinion. He did admit if the chopped wood pile was stacked it would be more presentable. Mr. Lansky said in his opinion the property looks better now than it has in a long time. He went on to say that if the equipment and materials have not moved in months, how can one say that the property is being used for commercial purposes. Mr. Brodnick said in his opinion since the equipment and materials is on the property without anyone living in the house, it is clearly being used as commercial

storage. Mr. Newman said that can't be proved. Ms. D'Ippolito said that the photos provided are not indicative of a pattern and there is a lot of speculation being made and that isn't enough to overturn a decision made by the Code Enforcement Officer. Mr. Lansky said he doesn't see any indication that the property is being used for commercial purposes and he is still not clear on how you measure a fence.

Mr. Guyot asked the applicant if they sat down and talked with their neighbors regarding the issues and they have. He rode passed the property a few times, although he agrees it is a bit of an eyesore, progress is being made and the equipment on the property is needed to do so. The trees that were removed are now piles of wood, the flatbed trailer is needed to transport the bob cat, the blocks can be used for the unfinished walkway and driveway. The trucks are needed for the grading fill. Mr. Guyot is not sure if a permit is needed for bringing in fill, Mr. Lansky said only for a certain amount which is probably noted in the Code. Mr. Guyot asked why the installation of the fence stopped. Evidently the owner's needed a survey. He agrees that the fence could match the contour of the land better.

Ms. Berg and her husband Stephen Galante addressed the Board. In their opinion, the owner of 6 Crest Way is running a pool company from their property. The trucks even say White Plains Pool Company. Starting in the spring, everyday starting around 7:00 a.m., they load the trucks with materials on the property and don't return until the end of the day, often bringing back additional materials. As a result of the grading done on the property, water is now going into their property. Block is being cut creating dust that is going into their yard, preventing them from sitting on their back deck. That is a civil matter, not zoning. A car being stored in the back yard also exists. Although this is not a violation of the Code, it is not part of the application.

In closing, Mr. Brodnick told the Board that regardless at the very least, the Code does say that his client is entitled to peaceful living.

All agreed to visit the site between now and the February 15th meeting as the application will be carried over. In the meantime, Mr. Cannistra will speak to the Town Attorney about his interpretation of the sections of the Code applicable to this application and discussion this evening.

Proposed Zoning Code Change – At their November 18th meeting, the Town Board set a public hearing for the proposed zoning code change recommended by the Zoning Board of Appeals. It was approved at their January 13, 2022 meeting.

Minutes – The minutes of the December 21, 2021 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on February 15, 2022 at 7:30 p.m. With there being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board

DRAFT