

Telephone  
(914) 277-5582

FAX  
(914) 277-3790

## ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

# Town of Somers

WESTCHESTER COUNTY, N.Y.



## AGENDA

April 19, 2022  
7:30 PM

1. **GERARD GALLAGHER**      **2022:ZB06**  
An application to renew a Special Exception Use Permit as a new owner for an existing accessory apartment in a detached accessory to an existing one family dwelling in an R-80 Residential District at **122 Route 139, Somers**. The property is shown on the Town Tax Map as **Section: 27.08, Block: 2, Lot: 3**. RE: Section Schedule: 170-70.
  
2. **MAGDY AND KATHIE MAHMOUD**      **2022:ZB07**  
An application to renew a Special Exception Use Permit for an existing accessory apartment in a detached accessory (cottage) to an existing one family dwelling in an R-80 Residential District at **17 Frances Drive, Katonah**. The property is shown on the Town Tax Map as **Section: 38.13, Block: 2, Lot: 25**. RE: Section Schedule: 170-70.
  
3. **ROSALIE MIGNANO**      **2022:ZB08**  
An application to renew a Special Exception Use Permit for an existing accessory apartment on the 2<sup>nd</sup> floor of an attached accessory (garage) to an existing one family dwelling in an R-40 Residential District at **8 Hilldale Avenue, Somers**. The property is shown on the Town Tax Map as **Section:**

**6.16, Block: 2, Lot: 32.** RE: Section  
Schedule: 170-70.

4. **JOHN PEGOLI**

**2022:ZB09**

An application to renew a Special Exception Use Permit for an existing accessory apartment in an attached accessory to an existing one family dwelling in an R-40 Residential District at **8 Crane Road, Somers.** The property is shown on the Town Tax Map as **Section: 17.10, Block: 1, Lot: 17.** RE: Section Schedule: 170-70.

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

**2022:ZB10**

An application to appeal the determination made by the Building Inspector that a miniature golf course is a permitted use in a Designed Residential Development (DRD) at **1000 West Hill Drive, Somers.** The property is shown on the Town Tax Map as **Section: 6.17, Block: 20, Lot: 21 and 23.** RE: Section Schedule: 170-12, 170-64 and 170-130.

6. **OTHER BUSINESS**

March 15, 2022 Meeting Minutes

Next Meeting – May 17, 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  
*Gerard Gallagher*

B Z NUMBER *2022: BZ06*  
DATE: *2/28/22*

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

1. *Gerard Gallagher*

(Name of appellant)

whose post office address is *25 Beaver Brook Road, Katonah, NY*

(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 \_\_\_\_\_

(Offic. held)

which ruling was filed on \_\_\_\_\_, and notice of such ruling was  
first received by appellant on \_\_\_\_\_; such ruling

(Give summary of ruling)

*its application to renew a  
Special Executive Use Permit as  
a minor structure to be used as  
apartment in a detached  
house on a 1.5 acre lot in  
R-80 zone*

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

\_\_\_\_\_ and is shown on the

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

Town Tax Map as Section: *27.18*, Block: *2*, Lot: *3*

The interest of the appellant is that of \_\_\_\_\_

(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.....

122 Route 139

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

A Special Use Permit is needed in order to have an additional 50% apartment

and such may be granted pursuant to 177-70

(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 28th

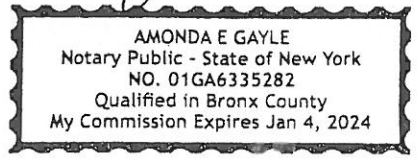
DAY February 22

[Signature]
NOTARY SIGNATURE

Gerard Gallagher
OWNER SIGNATURE

[Signature]
NOTARY SIGNATURE

Gerard Gallagher
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  
Magdy and Rathie Mahmoud

B Z NUMBER 2022: BZ 07  
DATE: 3/10/22

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

1. Magdy and Rathie Mahmoud  
(Name of appellant)

whose post office address is 17 Francis Drive, Katonah, NY 10534  
(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 to renew a Special  
Exception Use Permit for an accessory  
apartment in a detached accessory  
(as stage) to an existing one family  
dwelling in an R-50 zone

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

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

Town Tax Map as Section: 39.13, Block: 2, Lot: 25

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

17 Frances Drive

(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 to have an accessory apartment as per the Code of the Town of Somers

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 10<sup>th</sup> DAY March 20 22

Denise Schirmer  
NOTARY SIGNATURE

Kathe Nakred  
OWNER SIGNATURE

NOTARY SIGNATURE  
DENISE SCHIRMER  
Notary Public State of New York  
No. 015022202  
County of Dutchess  
Commission Expires March 10, 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

Rosalie Mignano

B Z NUMBER 2022:BZ08

DATE: 3/8/22

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

1. Rosalie Mignano

(Name of appellant)

whose post office address is 8 Hilldale Avenue, 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

(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 an attached  
garage in an R-40 zone

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

8 Hilldale Avenue

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

Town Tax Map as Section: 6011, Block: 2, Lot: 32

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 Hilldale Avenue

(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 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 8<sup>th</sup> DAY March 20 22

Denise Schirmer NOTARY SIGNATURE

Owner Signature OWNER SIGNATURE

DENISE SCHIRMER Notary Public State of New York No. 01SC6298242 Qualified in Dutchess County Commission Expires March 10, 20 26 NOTARY SIGNATURE

Applicant Signature APPLICANT SIGNATURE





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

TOWN HALL  
SOMERS, NEW YORK 10589  
(914) 277-5582

IN THE MATTER OF THE APPEAL  
OF  
John Pegoli

B Z NUMBER 2022:BZ09  
DATE: 3/1/22

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

1. John Pegoli  
(Name of appellant)

whose post office address is 8 Crane Road, 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  
(Name of officer)

made on  
(Offic. 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 attached to an existing  
dwelling in an R-40 zone

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

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: 17

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 Crane 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 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 15th DAY March 20 22

Denise Schirmer  
NOTARY SIGNATURE

John Paul Pegoli  
OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
No. 01906208242  
Qualified in Dutchess County  
NOTARY SIGNATURE Expires March 10, 20 26

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

Heritage Hills Society, Ltd

B Z NUMBER

2022: BZ10

DATE:

March 11, 2022

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

1. Heritage Hills Society, Ltd.

(Name of appellant)

whose post office address is 8 Heritage Hills Drive, Somers, N.Y. 10589

(Post office address)

through The LaGumina Law Firm, PLLC by Sharon A. Reich, Esq.

(Name of attorney or representative if any)

whose post office address is 2500 Westchester Avenue, Suite 105, Purchase

(Post office address)

New York 10577

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 February 9, 2022

which ruling was filed on February 9, 2022

and notice of such ruling was first received by appellant on February 10, 2022

; such ruling determined that a miniature golf course is a permitted use in a

(Give summary of ruling)

designed residential development as defined in §170-12(c)(5) of

the Somers Town Code if it is meant primarily for the use of the

residents.

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

Somers National Golf Club

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

and is shown on the Town Tax Map as Section: 6.17, Block: 20, Lot: 1.21-1.23

The interest of the appellant is that of Heritage Hills Condominium Owners

(Owner, tenant, etc.)

4. The appeal is taken (on the ground that the ruling or decision was erroneous) ~~to~~

~~with respect to the zoning board's decision on the appeal.~~ See attached

(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 .....

Somers National Golf Club

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

The appeal is based on a code interpretation.

and such may be granted pursuant to Town code §§ 170-12, 170-64 and 170-130

(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 10<sup>TH</sup> DAY MARCH 20 22

NOTARY SIGNATURE

OWNER SIGNATURE

NOTARY SIGNATURE

APPLICANT SIGNATURE

RAYMOND J. BRUSCA  
Notary Public, State of New York  
No. 02BR4991843  
Commission Expires March 25, ~~2018~~ 2022



(914) 277-5582  
Telephone

(914) 277-3790  
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

March 15, 2022

The meeting was called to order by Chairman Cannistra at 7:40 p.m. with the Pledge of Allegiance.

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

Mr. Lansky was absent.

Building Inspector Tom Tooma and interested residents were also present.

Chairman Cannistra welcomed Mr. Padovani who was recently appointed to the Board.

### APPLICANT

#### **ALBERT AND ANN CUSANO – 2022:ZB03 – 26.20-2-52**

An application for the renewal of a Special Exception Use Permit for an existing accessory apartment in the basement of an existing one family dwelling in an R-40 Residential District at 18 Watergate Drive, Amawalk. The property is on the Town Tax Map as Section: 26.20, Block: 2, Lot: 52. RE: Section Schedule 170-70.

Ann Cusano addressed the Board. Her mother lives in the basement apartment and has been for a very long time. Building Inspector Tom Tooma inspected the apartment on February 16<sup>th</sup>, no changes have been made, it is identical to when it was previously approved and is compliant. There have been no complaints.

Mr. Harden made a motion for a Type II action. 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. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

Mr. Newman made a motion to approve the Special Exception Use Permit for an accessory apartment in the basement of an existing one family dwelling for the next 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. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

**JAMES AND HOPE MAZZOLA – 2022:ZB04 – 27.11-2-11**

An application for the renewal of a Special Exception Use Permit for an existing accessory apartment on the 2<sup>nd</sup> floor of an attached garage to an existing one family dwelling in an R-80 Residential District at 27 Valley Pond Road, Katonah. The property is on the Town Tax Map as Section: 27.11, Block: 2, Lot: 11. RE: Section Schedule 170-70.

Hope Mazzola addressed the Board. Her adult son lives in the accessory apartment. Building Inspector Tom Tooma inspected the apartment on March 4<sup>th</sup>, no changes have been made, it is identical to when it was previously approved and is compliant. There have been no complaints.

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. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

Mr. Newman made a motion to approve the Special Exception Use Permit for an accessory apartment on the 2<sup>nd</sup> floor of an existing attached garage of an existing one family dwelling for the next 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. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

**ANDREA MATTEIS – 2022:ZB05 – 16.10-5-26**

An application for a deck addition for less than the required lot size; rear yard setback; building coverage and lot 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.

Ms. Matteis' husband Gene Mazzulli and Bob Eberts of Cross River Architects addressed the Board. There is an existing above ground pool and the applicant would like to add a deck between the house and pool. Four variances are being requested, 250' for lot size; 11.47' for rear yard; 7.79% for building coverage and 4.37% for lot coverage. The lot size is pre-existing non-conforming and fairly small so the variances are not so significant. The rear yard variance will not affect the neighbors as there is a retaining wall with a fence on top of it and plenty of shrubbery. The neighbor though has expressed concern about the retaining wall as it is decaying. Mr. Mazzulli said that he and his wife already met with the neighbor and the wall will be repaired.

Mr. Harden made a motion for a Type II action. 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. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

Mr. Newman made a motion to approve the four variances as follows: 250' for lot size; 11.47' for rear yard; 7.79% for building coverage and 4.37% for lot coverage. In addition, the retaining wall will be repaired to the satisfaction of the Building Inspector. 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. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

The variances were approved.

**Consultation with Town Attorney** – As a result of some questions that came up at the January meeting, Mr. Cannistra spoke with Town Attorney Gerry Reilly. In Mr. Reilly's opinion, parking commercial vehicles on a residential property is not permitted, they should be parked in a garage. With regard to lot coverage, in Mr. Reilly's opinion, you only have to get a variance if the proposed project enhances the non-conformity. Mr. Tooma said he spoke with Mr. Reilly and 170-93 of the Code of the Town of Somers was researched. Mr. Tooma is under the impression that any improvements made after July 16, 1945 would require a variance. Mr. Cannistra said further clarification is needed and asked all Board members to review that section of the Code.

**Minutes** – The minutes of the January 18, 2022 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on April 19, 2022 at 7:30 p.m. With 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

DRAFT