

Telephone  
(914) 277-5582

ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



AGENDA

June 21, 2022  
7:30 PM

1. RICHARD NASH

**2022:ZB15**

An application to renew a Special Exception Use Permit for an existing accessory apartment on the 2<sup>nd</sup> floor of an existing barn to an existing one family dwelling in an R-80 Residential District at **5 Two Penny Lane, Katonah**. The property is shown on the Town Tax Map as **Section: 27.10, Block: 1, Lot: 20.3**. RE: Section Schedule: 170-70.

2. MARTIN AND MEGAN  
RICHARDSON

**2022:ZB16**

An application for a front yard setback variance for a front porch addition of an existing one family dwelling in an R-80 Residential District at **32 Frances Drive, Katonah**. The property is shown on the Town Tax Map as **Section: 38.09, Block: 2, Lot: 30**. RE: Section Schedule 170: A1 Zoning Schedule Part 1.

3. VICTOR AND DEBORAH  
WU

**2022:ZB17**

An application for a side yard setback variance for an existing inground pool of an existing one family dwelling in an R-80 Residential District at **8 Silver Springs Court, Katonah**. The property is shown on the Town Tax Map as **Section: 58.12**,

**Block: 1, Lot: 10.** RE: Section Schedule  
170: A1 Zoning Schedule Part 1.

4. **OTHER BUSINESS**

May 17, 2022 Meeting Minutes

Next Meeting – July 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  
Richard Nash

B Z NUMBER 2022:ZB15  
DATE: 5/19/22

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

1. Richard Nash

(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 to renew a Special  
Exception Use Permit for an existing  
accessory apartment to an existing  
one family dwelling in an R-80  
District - the accessory apartment  
is on the 2nd floor of an existing barn

3. The property which is the subject of the appeal is located at or known as  
5 Two Penny Lane 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: 20.3

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 .....

5 Two Penny Lane  
.....  
.....  
.....

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

A Special Exemption 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 19<sup>th</sup> DAY May 20 22

Denise Schirmer  
NOTARY SIGNATURE

Rich Nash  
OWNER SIGNATURE

**DENISE SCHIRMER**  
Notary Public State of New York  
No. 01SC6298242  
Qualified in Dutchess County  
Commission Expires March 10, 2026

Rich Nash  
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  
Martin + Megan Richardson

B Z NUMBER 2022:ZB16  
DATE: 5/31/22

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

1. MICHAEL PICCIRILLO  
(Name of appellant)  
whose post office address is 345 KENZ ST Suite 203, Yorktown Htg, 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. TODMA JR.  
(Name of officer)  
BUILDING INSPECTOR, made on April 25, 2022  
(Office held)

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

(Give summary of ruling)  
EXISTING SINGLE FAMILY DETACHED HAS A FRONT YARD SETBACK  
OF 38.4 FT WHERE 40 FT IS REQUIRED. THE OWNER  
WOULD LIKE A FRONT PORCH. THE PROPOSED PORCH REQUIRES  
A FRONT YARD VARIANCE, PROPOSING 30.4 FT WHERE 40 FT IS REQ'D.  
SAME FOR 2<sup>ND</sup> FLOOR EXPANSION.

3. The property which is the subject of the appeal is located at or known as 32 FRANCIS DRIVE  
and is shown on the  
(Street and number or distance from and names of nearest intersecting streets)  
Town Tax Map as Section: 38.09, Block: 2, Lot: 30

The interest of the appellant is that of ~~APPELLANT~~ 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.)

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 .....

32 FRANCIS DRIVE

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

THE CASTLE HOUSE IS LOCATED WITHIN THE FRONT YARD SETBACK  
ANY IMPROVEMENT TO THE FRONT WILL REQUIRE A VARIANCE  
NEW FRONT PORCH & 2ND FLOOR EXPANSION WILL REQUIRE  
A FRONT YARD VARIANCE

and such may be granted pursuant to..... CHAPTER 170 ZONING.

(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 31st DAY May 20 22

Denise Schirmer  
NOTARY SIGNATURE

OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
No. 01SC6298242  
Qualified in Dutchess County  
Commission Expires March 10, 2024  
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

Victor Wu & Deborah Wu

B Z NUMBER 2022 ZB17

DATE: 5-13-22

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

1. Victor Wu

(Name of appellant)

whose post office address is 8 Silver Springs Court, Katonah, NY 10536

(Post office address)

through Durante, Bock & Tota, PLLC, by Daniel R. Tota, Esq.

(Name of attorney or representative if any)

whose post office address is 2000 Maple Hill Street - Suite 206, Yorktown Heights, NY 10598

(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

, made on September 3, 2021

(Office held)

which ruling was filed on November 30, 2021

and notice of such ruling was first received by appellant on December 6, 2021; such ruling was a determination that the appellant violated Section 170:A1 Zoning Schedule Part 1 of the Code

(Give summary of ruling)

of the Town of Somers in that the in-ground swimming pool did not meet the required 15' setback in their zoning district (R80).

3. The property which is the subject of the appeal is located at or known as 8 Silver Springs Court, Katonah, NY 10536

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

Town Tax Map as Section: 58.12, Block: 1, Lot: 10

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.) See attached supplemental information.

(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 Silver Springs Court, Katonah, NY 10536

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

and such may be granted pursuant to Section 170-110/111 and related provisions of the Zoning Code.

(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<sup>th</sup> DAY April 20 22

[Signature]  
NOTARY SIGNATURE

X [Signature]  
OWNER SIGNATURE Victor Wu

[Signature]  
NOTARY SIGNATURE

[Signature]  
APPLICANT SIGNATURE

KEVIN G. THEOFIELD  
Notary Public - State of New York  
No. 02TH6392224  
Qualified in Westchester County  
Commission Expires 5/20/23

KEVIN G. THEOFIELD  
Notary Public - State of New York  
No. 02TH6392224  
Qualified in Westchester County  
Commission Expires 5/20/23



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ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

Victor Cannistra  
Chairman

**Town of Somers**

WESTCHESTER COUNTY, N.Y.



**Meeting Minutes**

May 17, 2022

The meeting was called to order by Chairman Cannistra at 7:30 p.m. with the Pledge of Allegiance.

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

Mr. Lansky and Mr. Padovani were absent.

Building Inspector Tom Tooma and interested residents were also present.

**APPLICANTS**

**BODO AND HELEN FISCHER – 2022:ZB11 – 48.13-1-11**

An application for the renewal of 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 3 North Lane, Katonah. The property is on the Town Tax Map as Section: 48.13, Block: 1, Lot: 11. RE: Section Schedule 170-70.

Helen Fischer addressed the Board. There is one gentleman living in the accessory apartment. Building Inspector Tom Tooma inspected the apartment on April 7<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 or issues.

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
Chairman Cannistra	Aye

Ms. D'Ippolito made a motion to approve the Special Exception Use Permit for an accessory apartment in a detached accessory (cottage) 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
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

**ISMAEL AND LISA RODRIGUEZ – 2022:ZB12 – 16.09-2-8**

An application for the renewal of a Special Exception Use Permit as a new owner for an existing accessory apartment in the basement of an existing one family dwelling in an R-40 Residential District at 13 Walker Drive, Yorktown Heights. The property is on the Town Tax Map as Section: 16.09, Block: 2, Lot: 8. RE: Section Schedule 170-70.

Lisa Rodriguez addressed the Board. Her father-in-law lives in the accessory apartment. Building Inspector Tom Tooma inspected the apartment on March 28<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 or issues. It was confirmed that there are at least two ways to get out of the apartment.

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

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. 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. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved.

**JOHN AND JANINE CRECCO – 2022:ZB13 – 17.09-2-37**

An application for a rehearing of a decision made by the Zoning Board of Appeals on January 16, 2001 and October 21, 2003 that the driveway to the existing one family dwelling be in perpetuity in an R-40 Residential District at 12 Mountain View Drive, Somers. The property is on the Town Tax Map as Section: 17.09, Block: 2, Lot: 37. RE: Section Schedule 148-9.

John Crecco addressed the Board. When the house was built, one of the conditions, among many, set forth by the Zoning Board of Appeals on January 16, 2001 was that the driveway be gravel in perpetuity as clearly the property is environmentally sensitive. A second appeal by a different owner of the property on October 21, 2003 was denied by the Zoning Board of Appeals because there was not a unanimous vote of the Board to rehear the application. Town Attorney Gerry Reilly advised that this is a new application that the Board can entertain. Mr. Crecco told the Board that as a result of his driveway being gravel, it is difficult to plow and for at least 3 months out of the year, it is a sheet of ice. Although the retention pond on one side of the driveway is blocked by boulders every 7', his fear is that someone, especially his young teen drivers can slide off the driveway into the retention pond. During the remaining part of the year, the driveway is mostly muddy. Principal Engineering Technician Steve Woelfle sent an email to Mrs. Schirmer, that was shared with the Board, indicating that if the Zoning Board approved this application, an administrative wetland permit would be required and some necessary restrictions made as well. Everything would have to be in place before the paving could be done. Since 2001, there are also new methods of mitigating run off for drainage and filtration. Mrs. D'Ippolito reminded the Board that a vote will have to take place in order to rehear the application.

Mr. Harden made a motion to rehear restriction number two of the resolution set forth by the Zoning Board of Appeals on January 16, 2001 that the driveway of the dwelling be gravel in perpetuity as a majority vote is needed. 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. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The application will be heard.

Mr. Crecco went on to say that in addition to his safety concern of ice build-up on the driveway, there are always pot holes and there is always gravel being tracked into his house, cars and yard. Paving his driveway would be easier to maintain and since his house is the only one on the road that doesn't have a paved driveway, paving it would be more aesthetically pleasing for the neighborhood. Mr. Crecco's property is about 6 acres, he only uses about an acre and his house is about 250' from the nearest property line. Paving the driveway is going to take time and money, he would be most grateful if he got permission to at least pave from his 3 bay garage down past the retention pond area, which is the lowest part of the driveway. Mr. Tooma indicated that a building permit would not be required for this work, but enforcement of any restrictions placed would be necessary. He is also quite certain that Mr. Woelfle would require professional engineering drawings for this work.

Mr. Harden 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. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Ms. D'Ippolito made a motion to grant the application, upon rehearing of the 9/16/2001 Zoning Board of Appeals Findings and Determination, to allow the applicant to pave the existing driveway, subject to the approval of the Engineering Department and conditioned upon the applicant providing proof of compliance of all requirements set

forth by the Engineering Department to the Zoning Board of Appeals before any paving of the driveway is initiated. 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
Chairman Cannistra	Aye

The application was approved.

**RICHARD AND NINA IAMMATTEO – 2022:ZB14 – 36.08-1-26**

An application for a rehearing of a decision made by the Zoning Board of Appeals on March 21, 2006 to deny a 100% variance of 75' road frontage for the property that is in an R-10 Residential District at 29 Woodcrest Terrace, Amawalk. The property is on the Town Tax Map as Section: 36.08, Block: 1, Lot: 26. RE: Section Schedule 148-9.

Nina and Richard Iammatteo, who both live in Yorktown, addressed the Board. Their parents bought the property in 1960 with the dream to build a retirement home on it. In March 2006, they were denied a 100% variance for 75' of road frontage. Their mother passed away not long ago and they are trying to settle the estate so they can put the 1.3-acre lot on the market so a home can be built. The entire lot is almost all level. At the end of Woodcrest Terrace is a paper road owned by the Town. That would be the ideal place to access their property. Clearly the property is landlocked and there is a lot of further information the Board would need in order to make a decision in overturning a vote from 2006 by the Zoning Board. The Iammatteos know that a house can be built on the property as engineering firm Bibbo Associate's was hired by their parents years ago and did what was needed to be done to determine that. The only thing that is stopping them is access. It is clear that resolving this issue is not as easy as it seems and the applicants may have to go before the Town Board to discuss it further. It was suggested that they have the lot surveyed as the one existing doesn't seem to be complete.

Tom Rukaj of 29 Elisha Purdy Road addressed the Board. His property abuts the back of the Iammatteo's property. His property line goes right through the paper road and he believes if a variance was granted to the applicants the driveway would have to go through his property. In addition, he currently has a shared driveway with an easement. Mr. Rukaj offered to meet with the Iammatteos to walk the property. All agreed that was a good idea.

The Iammatteos decided to withdraw their application as clearly additional research is needed. They thanked the Board for their time and input.

## **OLD BUSINESS**

Ms. D'Ippolito asked if the Christopher Columbus Society finished their deck project. Mrs. Schirmer responded that their permit is still valid, and they have already had a footing inspection. They should be ready for a final inspection over the next month or so.

**Consultation with Town Attorney Update** – It was stated in the March 15, 2022 meeting minutes, that 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.

Mr. Lansky was not at the March 15<sup>th</sup> meeting but commented at the April meeting that although he agrees with Mr. Reilly's opinion about lot coverage and a non-conformity, he doesn't necessarily agree with his opinion about parking commercial vehicles in a residential district.

Mrs. Schirmer was asked to contact Mr. Reilly about attending a meeting with the Board to discuss this further. He will meet with the Board as well as Mr. Tooma and Mrs. Schirmer in Executive Session at 6:30 p.m. on June 21<sup>st</sup>.

**Minutes** – The minutes of the April 19, 2022 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on June 21, 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