

(914) 277-5582

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**

August 15, 2023

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

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

Mr. Padovani was absent with prior notice.

Interested residents were also present.

**APPLICANTS**

**NICHOLAS FOSTER - 2023:ZB19 – 48.13-1-9 (CARRYOVER)**

An application for a Special Exception Use Permit to alter an existing recreation area above a detached 3-car garage to an existing one family dwelling to create an accessory apartment in an R-80 Residential District at 4 North Lane, Katonah. The property is on the Town Tax Map as Section: 48.13, Block: 1, Lot: 9. RE: Section Schedule 170-70.

Last month, Mr. Foster met the Board. His house was built in 1980, and the 3-car, two story detached garage was built 1987. In 2008, a recreation area was created on the second floor of the garage. He would like to alter the recreation area to create a one-bedroom accessory apartment. The plan submitted with the application shows the apartment as being over the 800 square feet maximum, which concerned the members, as they didn't feel comfortable approving a submission that didn't have accurate square footage. Mr. Tooma will speak to Mr. Foster's architect regarding habitable space to aid in recalculating.

Mr. Foster returned this evening and addressed the Board. His architect Robert Eberts was also in attendance. Mr. Eberts of Cross River Architects created plans for the existing recreation area. Although the dimensions have not changed, Mr. Eberts and Mr. Foster met with Building Inspector Tom Tooma at the location. Using the definition of habitable space, which does not include closets and bathrooms, a calculation of 759 square feet was determined. In his absence, Mr. Tooma sent a memo to the Zoning Board supporting this determination. Mr. Lansky in particular did not agree with using that definition. The Code refers to floor area as describing the square footage permissible in an accessory apartment. There is a definition in the Code for livable floor area, which all agreed was more applicable. In using that definition, the total square footage of the existing space is 863 square feet. All agreed that they would be more comfortable in approving a 63' variance, rather than using the definition of habitable space.

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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Lansky made a motion to approve a 70' area variance for an accessory apartment over an existing 3-car garage to an existing one family dwelling. 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Variance was approved.

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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Newman made a motion to approve a Special Exception Use Permit to alter an existing recreation area over an existing 3-car garage to an existing one family dwelling to create an accessory apartment for 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 to be renewed in 7 years was approved.

**RICHARD AND DIANE BOURQUE - 2022:ZB20 – 18.13-2-32.5**

An application for two front yard area variances for an addition and carport to an existing one family dwelling in an R-10 Residential District at 14 Overlook Way, Purdys. The property is on the Town Tax Map as Section: 18.13, Block: 2, Lot: 32.5. RE: Section Schedule 170:A1 Zoning Schedule Part 1.

Richard Bourque addressed the Board. He, his wife and son have been living in their house since 2008. They have outgrown the space, but love their home and neighborhood. In an effort to remain in their home, they would like to add a small addition as well as a carport.

Architect Jason LaRocca addressed the Board. The applicant's property is on a road with a dead end and paper cul-de-sac. The Town actually owns a portion of their property. It is an odd site with slopes and septic, therefore finding two flat areas for the addition and carport is a difficult task. The proposed carport would be built at the end of the driveway and the addition to the southside of the existing house. Two front yard area variances, in the amount of 12' 4" are being requested to see these projects to fruition. Mr. Lansky is very familiar with this property as he lives around the corner. It is

a front stoop neighborhood and since the roads were built in the 1920's and there are only 5 houses on the road, it is highly unlikely that the Town would ever build a cul-de-sac. The justification for the two front yard variances is cited in Section 170-48 (A)3 of the Code of the Town of Somers.

Resident Aidrian O'Connor of 76 Entrance Way addressed the Board. He has been a member of the Lake Purdys Property Association for the past 12 years, of which 8 were spent being the President. Currently he serves as the Lake Chairman. He knows the property as well as the owners well and, in his opinion, the addition and carport would enhance the property and increase the value of the property.

Resident Abbey Polito of 40 Lake Way sent an email to the Board Secretary. She too is a member of the Lake Purdys Property Association and supports this project. In her opinion, the proposed addition and carport will not only add value to the Bourque's property, but the neighborhood as well.

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. Lansky made a motion to approve a 12' 4" area variance for an addition in accordance with Section 170-48 (A)3 of the Code of the Town of Somers. 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The 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. Lansky made a motion to approve a 12' 4" area variance for a carport in accordance with Section 170-48 (A)3 of the Code of the Town of Somers. 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Variance was approved.

**VINCENT COTRONA – 2023:ZB21 – 16.10-3-22**

An application for a front, rear and side yard area variance, as well as building coverage for a proposed addition to an existing one family dwelling in an R-10 Residential District at 5 Aery Road, Yorktown Heights. The property is on the Town Tax Map as Section: 16.10, Block: 3, Lot: 22. RE: Section Schedule:170:A1 Zoning Schedule Part 1.

Mr. Cotrona addressed the Board. His dwelling is 1,200 square feet and his kitchen is only 6' by 6'. He would like to expand his kitchen and add a family room. The house would remain as a one story and is on a dead end. The location of the septic limits where the addition can be. It will follow the line of the house and is actually further away from the property line. As a result of this proposal, a request is being made for a front, rear and side yard area variance, as well as building coverage.

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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Harden made a motion to approve a 1.1' front yard area variance; 4.5' rear yard area variance; 8' side yard area variance and 6.09% building coverage. 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. Lansky	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Variances and Building Coverage were approved.

**ELMER AND SYLVIA GUDIEL – 2023:ZB22 – 4.19-2-12.2**

An application for a side yard area variance for a proposed deck addition to an existing one family dwelling in an R-40 Residential District at 218 North View Lane, Mahopac. The property is on the Town Tax Map as Section:4.19, Block: 2, Lot: 12.2. RE: Section Schedule:170:A1 Zoning Schedule Part 1.

Mr. Gudiel addressed the Board. He would like to expand his existing deck and in doing so the stairs will have to be relocated, resulting in the request for a 1' side yard area variance.

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 a 1' side yard area variance to add on to an existing deck. 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 Variance was approved.

**Minutes** – The minutes of the July 18, 2023 meeting were approved as submitted.

The next monthly meeting of the Zoning Board of Appeals will be held on September 19, 2023 at 7:30 p.m. With there being no further business, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board