

(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**

March 19, 2024

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, Mr. Newman, and Mr. Padovani.

Interested residents and Building Inspector Tom Tooma were also present.

**APPLICANTS**

**3 NARCISSUS DRIVE, LLC - 2024:ZB03 – 5.15-1-64**

An application for six Variances for an existing one family dwelling in an R-10 Residential District at 3 Narcissus Drive, Mahopac. The property is on the Town Tax Map as Section: 5.15, Block: 1, Lot: 64. RE: Section Schedule: 170:A1 Zoning Schedule Part 1.

Property owner Greg DiNapoli addressed the Board. He bought the one-bedroom, one bath house, built in 1946, about a year and a half years ago. It is pre-existing, non-conforming. A lot line change needed to be done as his porch, patio and walkway was on his neighbor's property and their walkway was on his. The two properties share a well. After the purchase, Mr. DiNapoli learned that the house did not have a Certificate of Occupancy and in order to get one, six variances are needed as follows:

	Required	Existing	Variance Sought
Minimum Size - Lot Per Dwelling Unit	10,000 sq. ft.	8,245 sq. ft.	1,755 sq. ft.
Minimum Size - Width at Front Lot Line	75'	63.71'	11.29'
Minimum Size – Front Yard	25'	13.3'	11.7'
Minimum Size – One Side Yard	15'	5.9'	9.1'

Minimum Size – Two Side Yards	30'	15.6'	14.4'
Minimum Livable Floor Area	1,000 sq. ft.	482' sq. ft.	518' sq. ft.

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
Mr. Padovani	Aye
Chairman Cannistra	Aye

Ms. D'Ippolito made a motion to approve the six variances as submitted with a 1' deviation on each. 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
Mr. Padovani	Aye
Chairman Cannistra	Aye

The six variances were approved.

**ANA CARPENITO - 2024:ZB04 – 6.16-2-36**

An application to renew a Special Exception Use Permit for an existing accessory apartment in a detached accessory to an existing one family dwelling in an R-40 Residential District at 27 Butler Hill Road, Somers. The property is on the Town Tax Map as Section: 6.16, Block: 2, Lot: 36. RE: Section Schedule 170-70.

Property owner Ana Carpenito addressed the Board. She uses the apartment as an office. It is 864 square feet. Building Inspector Mr. Tooma inspected the apartment on January 25, 2024, no changes have been made and it 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. Lansky	Aye
Mr. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

Mr. Harden made a motion to approve the Special Exception Use Permit for an accessory apartment in a detached accessory for 7 years. 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
Mr. Padovani	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved for 7 years.

**RUSSELL AND LISA HOM - 2024:ZB05 – 16.17-2-1**

An application to renew a Special Exception Use Permit for an existing accessory apartment on the second floor of an existing one family dwelling in an R-40 Residential District at 1 Delra Lane, Yorktown Heights. The property is on the Town Tax Map as Section: 16.17, Block: 2, Lot: 1. RE: Section Schedule 170-70.

Property owner Russell Hom addressed the Board. He and his wife live in the apartment and their daughter lives in the house. It is 750 square feet. Building Inspector Mr. Tooma inspected the apartment on February 7, 2024, no changes have been made and it is compliant. There have been no complaints or issues.

Mr. Padovani 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. Harden	Aye
Mr. Lansky	Aye
Mr. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

Ms. D’Ippolito made a motion to approve the Special Exception Use Permit for an accessory apartment on the second floor of an existing one family dwelling for 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. Lansky	Aye
Mr. Newman	Aye
Mr. Padovani	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was approved for 7 years.

**DONALD CAPOCCIA AND TOMMIE PEGUES - 2024:ZB07 – 48.17-1-7**

An application for two Variances to convert an existing one family dwelling to a farm building in an R-80 Residential District at 78 Moseman Avenue, Katonah. The property is on the Town Tax Map as Section: 48.17, Block: 1, Lot: 7. RE: Section Schedule 170-3 and 170-10 (B).

Attorney Michael Sirignano addressed the Board. His clients own 78, 82 and 84 Moseman Avenue. 78 Moseman Avenue is just over 7 acres, qualifies as a small farm and is now part of the Westchester County Agricultural District, which was a very rigorous process for the owners to go through. As a result, they would like to cultivate apples and peaches. Mr. Capoccia and Mr. Pegues want to convert the existing dwelling at 78 Moseman Avenue into a farm building, but in doing so, since the setbacks are different than that of a dwelling, two variances are needed so the side and rear yard setbacks are 100’. The plan is to have a low impact and intensity small farm.

Architect Ryan Connelly addressed the Board and shared the site plans. The converted building will be 3,111 square feet, 20 square feet larger than what is existing. There is one floor and a basement. It meets the height, lot coverage and site coverage

requirements. Processing and packaging will take place on site, but there will not be any retail sales on site. The property will not be open to the public.

Owners Don Capoccia and Tommie Pegues addressed the Board and gave an overview of what they plan to do. The apples will be used to make apple cider, applesauce, apple chips and jam. Currently there are 100 fruit trees on the property that bear apples, peaches, pears, plums and cherries. There is no plan to plant any more trees. The necessary work to run this business will be done by their caretaker and his wife who live in a cottage at 84 Moseman Avenue and a farm hand who will live at 78 Moseman Avenue. In season, additional farm hands will be hired, not to exceed a total of 5 workers. The only odors anticipated will be those of what is being processed, which should be sweet and appealing. As far as noise, the apple presses are manual, and they have a small Kubota with a front loader, a small gator as well as a small pick-up truck. Movement around the property will be internal. The existing driveway at 78 Moseman Avenue will only be used to take shipments off the property. Harvesting only takes place in September and October and no one works on Sunday. During the rest of the year, a professional company prunes, fertilizes and sprays. Only organic materials are used. The entire property is fenced in with fencing no higher than 6'. Most of the neighbors are between 500 and 1,000' away from the proposed farm building, but three are just over 200' away. Mr. Capoccia and Mr. Pegues have spoken with those neighbors and they had no objection to the small private label production that is being proposed.

Ms. D'Ippolito 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
Mr. Padovani	Aye
Chairman Cannistra	Aye

Ms. D'Ippolito made a motion to approve the two variances with the condition that there will be no public access to the property to engage in activities such as apple picking. 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
Mr. Padovani	Aye
Chairman Cannistra	Aye

The two variances were approved.

**Floor Area Definition for Accessory Apartments** – Currently the Town Code specifies a maximum “floor area” (800 square feet) for accessory apartments. However, the Town Code does not provide a definition of “floor area” (it does provide definitions of “gross floor area” and “livable floor area”). Mr. Newman would like the Board to consider a way in which to resolve this by giving consideration to:

- Adding the definition of “floor area” to the Town Code
- Changing the Town Code to use either of the existing definitions (“gross floor area” or “livable floor area”)
- Changing the Town Code to use the NYS Code definition of “habitable space”
- Use some combination of the above

Mr. Newman led the discussion and all agreed that using the existing “livable floor area” definition made sense, and applicable changes to 170-70 Accessory Apartments will be made. A draft will be sent to all for review and comment so that ultimately a memo can be sent to the Town Board.

Chairman Cannistra thanked Mr. Newman for all the work he put into this endeavor.

**Minutes** – The minutes of the January 16, 2024 meeting were approved as submitted. Mr. Guyot recused himself as he was not present at the meeting.

The next monthly meeting of the Zoning Board of Appeals will be held on April 16, 2024 at 7:30 p.m. With there being no further business, the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board