Telephone
(914) 277-5582

FAX
(914) 277-3790

Victor Cannistra,
Chairman
Ronald Carpaneto
Bill Harden
Arnold Guyot
Bruce Prince
Umberto Santaroni
Robert Scorrano

ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

AGENDA

November 15, 2016
7:30 PM
SOMERS TOWN HOUSE
MEETING ROOM

1. **ROAD RUNNER REALTY CORP.**

   BZ18/16
   An application for an Area Variance for a sign which exceeds the maximum height, located in a Neighborhood Shopping District at **250 Mahopac Avenue, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 4.19, Block: 2, Lot: 20.** RE: Section 170-126.

2. **CHRISTINE BESHAR**

   BZ19/16
   An application for a Special Exception Use Permit to raise and house alpacas; and a determination as to whether or not an alpaca is a medium or large animal, located in an R-40 Residential District at **413 Route 202, Somers**. The property is shown on the Town Tax Map as **Section: 6.20, Block: 1, Lot: 33.** RE: Section Schedule 170-69: A and C (2) and (3).

3. **InSite Towers Development, LLC**

   BZ20/16
   An application for a Special Exception Use Permit renewal of a cell tower, located in an R-80 Residential District at **2580 Route 35, Katonah**. The property is shown on the Town Tax Map as **Section: 37.13, Block: 2, Lot: 1.** RE: Section Schedule 170-129.6 (G).

4. **SOMERS CROSSING, LLC** — **BZ21/16**

An application for an Area Variance to permit seven (7) additional bedrooms or 1.06 additional density units over what is permitted in the MFR-DH on the residential site; and an Area Variance from 15% permitted coverage to 16.8% proposed coverage for the residential parcel, located in a MFR-DH District at **307 Route 100, Somers**. The property is shown on the Town Tax Map as **Section: 17.15, Block: 1, Lot: 15.1.** RE: Section 170-12 (D) (1) (a) and 170-13.C (1) (a) (2).

5. **OLEG ALECKSANDROVICH** — **BZ22/16**

An application for an Area Variance for an accessory in a front yard, located in a R-10 Residential District at **28 Bridge Lane, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 16.14, Block: 2, Lot: 74.** RE: Section 170-8, 11 (A) and 36 (A-1).

6. **OTHER BUSINESS**

Approval of October 18, 2016 Meeting Minutes.

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
Road Runner Realty Corp.

B Z NUMBER BZ 18/16

DATE: 11/2/16

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

1. Larry Levine
(Name of appellant)

whose post office address is 14 Shana Lane, Mahopac, NY 10541
(Post office address)

through Stefan Schwarze
(Name of attorney or representative if any)

whose post office address is 250 Mahopac Avenue, 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 Efrem Citarella
(Name of officer)

Building Inspector, made on October 27, 2016
(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 for an Area Variance for a sign which exceeds the maximum size, located in a Neighborhood Shopping Zoning District

3. The property which is the subject of the appeal is located at or known as 250 Mahopac Avenue, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 4.19, Block: 2 Lot: 20

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

250 Mahopac Avenue

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

An application for an Area Variance for a sign which exceeds the maximum size, located in a Neighborhood Shopping Zoning District

and such may be granted pursuant to 170 - 126

(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 October 20 16

Denise Schirmer
NOTARY SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6298242
Qualified in Dutchess County
Commission Expires March 10, 20 18

Joseph Lewis
OWNER SIGNATURE

NOTARY SIGNATURE

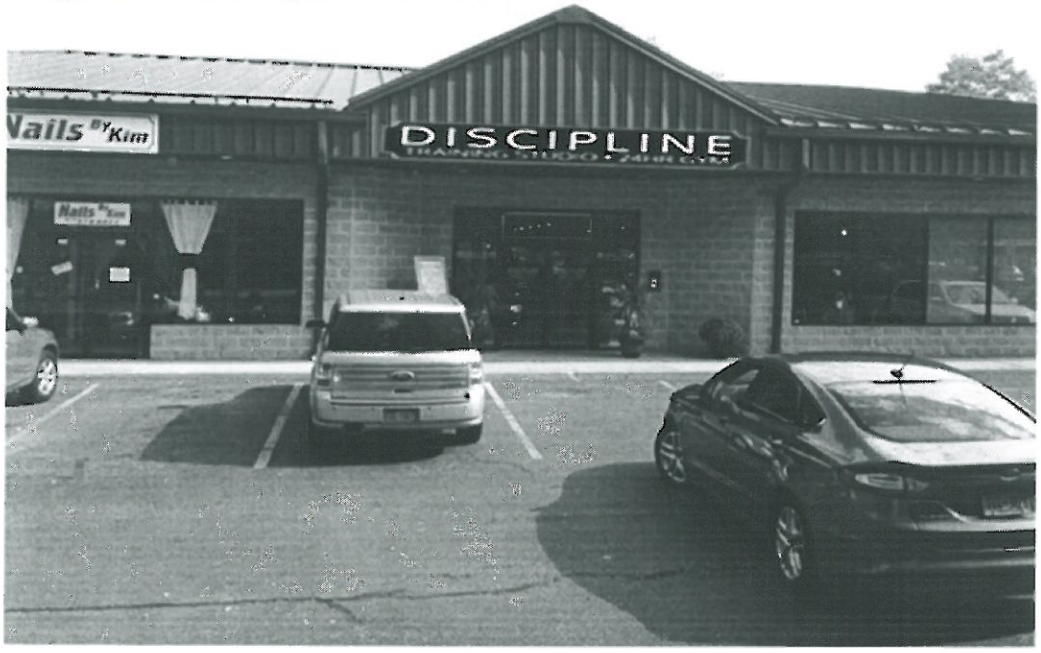
APPLICANT SIGNATURE

Denise Schirmer

From: Stefan A. Schwarze <stefanas@mac.com>
Sent: Monday, October 31, 2016 11:31 AM
To: Denise Schirmer
Subject: Sign photos

13' X 3'

20' X 2'



ARCHITECTURAL REVIEW BOARD

Telephone
(914) 277-5582
Fax
(914) 277-3790

JOHN ALFONZETTI
CHAIRMAN

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

DENISE SCHIRMER
SECRETARY
dschirmer@somersny.com

MEMO TO: Zoning Board of Appeals

FROM: Architectural Review Board

RE: Discipline Training Studio

DATE: October 31, 2016

At our October 27, 2016 monthly meeting, the Board met with Stefan Schwarze regarding a sign proposal for his new business Discipline Training Studio located at 250 Mahopac Avenue.

The sign will be centered in the gable over the front entrance and reads "DISCIPLINE" on the top line and "TRAINING STUDIO 24 HR GYM" on the second line. All letters are white and the background is black. The sign is 13' long by 3' high.

Although the members had no objection to the sign, they could not approve it as submitted since it exceeds the 2' maximum height requirement.

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
Christine Beshar

B Z NUMBER BZ19/16

DATE: 11/2/16

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

1. Christine Beshar
(Name of appellant)

whose post office address is PO Box 533, Somers, 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 Efrem Citarella
(Name of officer)

Building Inspector, made on October 19, 2016
(Office held)

which ruling was filed on October 20, 2016, and notice of such ruling was first received by appellant on October 19, 2016; such ruling

.....
(Give summary of ruling)

An application for a Special Exception Use Permit has to be filed to raise and house alpacas in an R-40 zone. A determination also has to be made as to whether or not an alpaca is a medium or large animal.

3. The property which is the subject of the appeal is located at or known as
413 Route 202, Somers, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 16.20, Block: 1 Lot: 33

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 .....

413 Route 202, Somers

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

An application for a Special Exception Use Permit has to be filed to raise and house alpacas in an R-40 zone. A determination also has to be made as to whether or not an alpaca is a medium or large animal.

and such may be granted pursuant to 170-69: A and C (2) and (3)

(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 20th DAY October 2016

Denise Schirmer
NOTARY SIGNATURE

Gilmore Berlin
OWNER SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6298242
Qualified in Dutchess County
Commission Expires March 10, 2018

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

InSite Towers Development, LLC.

B Z NUMBER BZ 20/16

DATE: [redacted] 11/2/16

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

1. InSite Towers Development, LLC.
(Name of appellant)

whose post office address is 1199 North Fairfax St, Suite 700, Alexandria VA 22314
(Post office address)

through Snyder & Snyder, LLP
(Name of attorney or representative if any)

whose post office address is 94 White Plains Rd, Tarrytown NY 10590
(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 N/A
(Name of officer)

(Office held), made on

which ruling was filed on , and notice of such ruling was first received by appellant on ; such ruling Re-Certification of Special Permit
(Give summary of ruling)

3. The property which is the subject of the appeal is located at or known as Santaroni Property, 2580 Route 35, Somers NY 10589, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 37.13, Block: 2 Lot: 1

The interest of the appellant is that of Tenant
(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 N/A

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

N/A

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

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

N/A

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 6th DAY October 20 16

Edward Teyber
NOTARY SIGNATURE

EDWARD P. TEYBER
Notary Public, State of New York
Registration #02TE6319109
Qualified In New York County
Commission Expires Feb. 9, 2019

NOTARY SIGNATURE

InSite Towers Development, LLC

By:

OWNER SIGNATURE
Tenant
Robert D. Gaudioso
Snyder & Snyder, LLP
Attorney for InSite Towers Development, LLC

APPLICANT SIGNATURE

LAW OFFICES OF
SNYDER & SNYDER, LLP
94 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591
(914) 333-0700
FAX (914) 333-0743

WRITER'S E-MAIL ADDRESS
RGaudioso@snyderlaw.net

NEW YORK OFFICE
445 PARK AVENUE, 9TH FLOOR
NEW YORK, NEW YORK 10022
(212) 749-1448
FAX (212) 932-2693

LESLIE J. SNYDER
ROBERT D. GAUDIOSO

DAVID L. SNYDER
(1956-2012)

NEW JERSEY OFFICE
ONE GATEWAY CENTER, SUITE 2600
NEWARK, NEW JERSEY 07102
(973) 824-9772
FAX (973) 824-9774

REPLY TO:

TARRYTOWN OFFICE

October 14, 2016

By Hand Delivery

Honorable Chairman Cannistra and
Members of the Zoning Board of Appeals
Town of Somers
335 Route 202
Somers, New York 10589

RE: Special Permit Renewal Application
InSite Towers Development, LLC
Santaroni Property (NY575)
2580 Route 35, Somers, New York

Honorable Chairman Cannistra and
Members of the Zoning Board of Appeals:

We represent InSite Towers Development, LLC ("InSite"), in connection with the enclosed special permit renewal application.

Pursuant to Section 170-129.6(G) of the Town of Somers Code, InSite respectfully requests renewal of its Special Permit originally granted by Zoning Board of Appeals resolution that was approved on October 18, 2011 and certified December 7, 2011 ("Resolution"), a copy of which is enclosed for your convenience. In support of the application, I have enclosed the Zoning Board of Appeals application form and a check in the amount of $150.00, payable to the Town of Somers, representing the required application fee. In addition, I have enclosed a report, signed and sealed by Michael T. De Boer, P.E., Bennett & Pless, dated May 1, 2015, that certifies that the facility is structurally safe and complies with all applicable structural safety standards. I have also enclosed a Radio Frequency Exposure Report, prepared by Pinnacle Telecom, dated January 21, 2016, confirming that the facility complies with the applicable FCC regulations pertaining to radio frequency exposure. Kindly note that the facility currently supports the antennas and equipment of New Cingular Wireless PCS, LLC., and New York

SMSA Limited Partnership d/b/a Verizon Wireless. Please also note that it is our understanding that the Bond is currently in effect to ensure that the facility is properly maintained and/or removed if abandoned in accordance with the Resolution, and that the facility remains in compliance with the terms of the Code and the Resolution.

In light of the minimal nature of this special permit renewal of InSite's existing facility, and the express provision allowing a waiver of the public hearing set forth in Section 170-129.6.G, we respectfully request that the public hearing be waived.

We thank you for your consideration and look forward to discussing this matter at the next available meeting. If you have any questions or require any additional documentation, please do not hesitate to contact me.

Respectfully submitted,
SNYDER & SNYDER, LLP

By:_____
Robert D. Gaudioso

RDG/dac
Enclosures
cc: InSite Towers Development, LLC
z:\ssdata\wpdata\ss3\rdg\insite\ny575 amawalk\zba cover letter 5-19-15.docx

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
Somers Crossing, LLC

B Z NUMBER BZ21/16

DATE: 11/2/16

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

1. Gus Boniello
(Name of appellant)

whose post office address is 165 Waccabuc Avenue, Goldens Bridge, NY 10526
(Post office address)

through Timothy Allen - Bibbo Associates
(Name of attorney or representative if any)

whose post office address is 293 Route 100, Somers
(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 Planning Board
(Name of officer)

..... (Office held), made on October 26, 2016

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

.....
(Give summary of ruling)

An applicatin for an Area Variance to permit seven (7) additional bedrooms or 1.06 additional density units over what is permitted in the MFR-DH on the residential site; and Area Variance from 15% permitted coverage to 16.8% proposed Coverage for the residential parcel.

3. The property which is the subject of the appeal is located at or known as 307 Route 100, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 17.15, Block: 1 Lot: 15.1

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 .....

307 Route 100

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

An application for an Area Variance to permit seven (7) additional bedrooms or 1.06 additional density units over what is permitted in the MFR-DH on the residential site; and an Area Variance from 15% permitted coverage to 16.89% proposed coverage for the residential parcel,

and such may be granted pursuant to 170-12(D)(1)(a) and 170-13.C(1)(a)(2)

(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 19th DAY October 20 16

NOTARY SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6298242
Qualified in Dutchess County
Commission Expires March 10, 20 18

OWNER SIGNATURE

NOTARY SIGNATURE

APPLICANT SIGNATURE

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-5366
Fax
(914) 277-4093

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589
www.somersny.com

Syrette Dym, AICP
Director of Planning
sdym@somersny.com

MEMORANDUM

TO: Town of Somers Zoning Board of Appeals

FROM: Town of Somers Planning Board

DATE: October 27, 2016

RE:

Project:	Somers Crossing
Applicant:	Boniello Land & Realty, Ltd.
Location:	Route 100/Route 202 (Section 17.15 Block 1 Lot 15.1)
Zoning:	MFR-DH District
Actions:	Need for Variances for Subdivision Approval for 2-Lot Subdivision of One 26.68 Acre Parcel into One 22.58 Acre Parcel for Construction of 66 Residential Units and One 4.1 Acre Parcel for Construction of a 19,000± Grocery Store in an MFR-DH District

Boniello Land & Realty, Ltd. submitted a Layout Plan identifying the two lot subdivision it seeks to separate the residential and retail parcels for which subsequent site plan approval will be sought. The conceptual plan for these developments were the subject of a detailed SEQRA review that resulted in the rezoning of the overall 26.68 acre parcel from an R80 and R40 zoned district to the MFR-DH district to permit the construction of the proposed residential and retail use in the Somers hamlet.

In preparing the zoning conformance table of the two proposed lots of 22.58 acres for residential and 4.1 acres for retail use, the applicant subtracted environmentally sensitive lands from the overall parcel to determine net acreage on which a zoning conformance table was then prepared.

The Planning Board and its consultants identified for the applicant that net acreage needed to be determined on a lot by lot, not overall parcel basis for determination of zoning conformance, as well as for determination of permitted number of density units and permitted bedroom count.

At its meeting of October 26, 2016, the Planning Board reviewed submissions by the applicant and by its consultants including the Bibbo Associates, LLP letter of October 19, 2016 and the memorandum from Syrette Dym and Fred Wells of October 21, 2016. (See Attached)

As a result of these analyses, the Planning Board determined that the following two variances are required:

1. Variance to permit seven (7) additional bedrooms or 1.06 additional density units over what is permitted in the MFR-DH on the residential site; and
2. Variance from 15% permitted coverage to 16.8% proposed coverage for the residential parcel.

Based on consideration of the prior environmental review process undertaken by the Planning Board, the Planning Board, at its meeting of October 26, 2016, voted to refer the requested variances to the Somers Zoning Board for its determination with its recommendation for approval based on its opinion that the impacts of both variances are not significant and would not have a significant impact on the environment. It also based its recommendation on the fact that the residential portion of the project consisted of 80 units when analyzed as a single site throughout the environmental review process and the current proposed 66 units represent a reduction in total units and, therefore, impacts.

Although he Planning Board did undertake a SEQRA analysis of the impacts of the 66 units consisting of 30-3 bedroom and 36 2-bedroom units for which the variances are sought, the Zoning Board needs to act as lead agency in its own uncoordinated SEQR review and make its own determination that the change from the now permitted 43 2-bedroom units and 23 3-bedroom units as compared with the desired 30 3-bedroom and 36 2-bedroom units, previously analyzed do not constitute a significant impact. Since Section 170-12D. (1)(a) describes the impacts of density units as related to population rather than the number of dwelling units, the applicant should provide the change in numbers of projected people, school children and traffic generated by the proposed seven additional bedrooms so the Zoning Board can provide a presumed determination of no significant adverse environmental impact as part of a negative declaration based on presented calculations.

Cc: Roland Baroni
Joe Barbagallo
Rob Wasp
Gus Boniello
Tim Allen
Rick O'Rourke
Bonnie VonOhlsen

Z:\PE\Town Board\Somers Crossing - Boniello\Site Plan-Subdivision\Subdivision\PB Referral-Recommendation to ZBA.doc

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

Oleg Alecksandrovich

B Z NUMBER BZ 22/16

DATE: 11/2/16

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

1. Oleg Alecksandrovich
(Name of appellant)

whose post office address is 28 Bridge Lane, Yorktown Heights, NY 10598
(Post office address)

through Steven E. Waldinger, Esq. of Shapiro Gettinger & Waldinger, LLP
(Name of attorney or representative if any)

whose post office address is 118 North Bedford Road, Mount Kisco, NY 10549
(Post office address)

does hereby appeal to the Zoning Board of Appeals at the Town of Somers.

2. Such appeal is taken from a verbal ruling of Efrem Citarella, Building Inspector
(Name of officer)
(Office held), made on September 21, 2016

which ruling was filed on N/A, and notice of such ruling was first received by appellant on September 21, 2016; such ruling advising appellant that existing carports violated the Building Code and Zoning Code.
(Give summary of ruling) See attached "Explanatory Statement"

3. The property which is the subject of the appeal is located at or known as 28 Bridge Lane, Yorktown Heights (Somers), NY, and is shown on the
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 16.14, Block: 2 Lot: 74

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 .....

.....

.....

.....

.....

.....

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

See attached "Explanatory Statement"

.....

.....

.....

.....

.....

.....

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

.....

(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 12th DAY October 20 16

NOTARY SIGNATURE

ANDREA ARRIGONI
Notary Public, State of New York
No. 01AR6147269
Qualified in Westchester County
Commission Expires May 30, 2019

OWNER SIGNATURE

Oleg Alecksandrovich

NOTARY SIGNATURE

APPLICANT SIGNATURE

SHAPIRO GETTINGER & WALDINGER, LLP

ATTORNEYS AT LAW
118 NORTH BEDFORD ROAD
MOUNT KISCO, N.Y. 10549

(914) 666-8033 FAX: (914) 666-4459
www.kiscolawfirm.com

MONA D. SHAPIRO
JOHN H. GETTINGER ∇
STEVEN E. WALDINGER o

KAREN TOBIAS o

CHARLES G. BANKS, JR. *
DAVID P. SEAMAN†
CHRISTOPHER DU P. ROOSEVELT
COUNSEL

∇ Also Admitted in California
o Also Admitted in Connecticut
† Also Admitted in District of Columbia
* Also Admitted in Pennsylvania

Somers Zoning Board of Appeals

In re: Oleg Alecksandrovich

Explanatory Statement

This explanatory statement is submitted in support of the application of Oleg Alecksandrovich for variances from the front-yard- and side-yard-setback variances on his property located at 28 Bridges Lane, Yorktown Heights (Somers) NY.

The applicant first consulted our firm in September, 2016, shortly after he learned that the roof-shelter canopies he had erected over the pre-existing parking spaces at his residence had been installed in violation of the Building Code and the Town Zoning code's front-yard- and side-yard-setback regulations. Upon inspection of the survey of the property prepared by Badey & Watson, Surveyors and Engineers, dated September 2, 2016, it was apparent that the canopies actually projected over the property line into the Town's right-of-way by as much as 2.4 feet.

On September 21, 2016, an attorney from our firm, Charles G. Banks, Jr., consulted with the Building Inspector, Efrem Citorella, who confirmed that, in his opinion, the ZBA could not even consider a variance application involving a structure that encroached on the Town's right-of-way. Mr. Citorella and Mr. Banks discussed the preparation of a revised survey so that the ZBA could be presented a proposed location for the canopies that did not encroach.

Thereafter, Badey & Watson prepared the October 5, 2016 revision of the survey, which is submitted with this application, and which shows a "proposed relocation" of the canopies to be at least one foot east of the westerly property line, so as to eliminate the encroachment. Because of the physical constraints of this very steep property, it is not practicable to relocate the canopies to be any further from the front line, or to any other location on the property. If the variances are approved, the canopies will be promptly relocated to the proposed locations shown on the October 5 survey.

The property is located in the R-10 zoning district.

Accordingly, the Applicant hereby applies for a 24-foot variance of the property's required 25-foot front-yard setback, and a 10.9-foot variance of the required 15-foot side-yard setback, so that the canopies may be relocated to and maintained in the proposed location

as shown on the October 5 survey. The resulting front-yard variance would amount to 96%, and the side-yard variance would amount to 72%.

The Applicant respectfully submits that the topography of the property is so steep as to make any other location for automobile parking entirely impracticable. In fact, the pre-existing parking spaces over which the canopies have been erected have remained in use and unchanged for more than 15 years, and are really the only places on the whole property where automobile parking is practicable. The spaces have been a maintenance problem for years, however, and the parked cars are unprotected from the weather in all seasons of the year. In the winter, the Applicant must occasionally remove snow having fallen during the day from the spaces upon arriving home and before the cars can be parked, which means that the cars must be temporarily parked at the side of a freshly-plowed street, further narrowing the right-of-way, while the spaces are shoveled out. This can be hazardous for Applicant and for passers-by.

In accordance with Subdivision 3(b) of Section 267-b of the NY Town Law, the Applicant respectfully submits that granting the requested variances will result in the following:

(1) No undesirable change will be produced in the character of the neighborhood or will be a detriment to nearby properties;
(2) The benefit requested by Applicant cannot be achieved by any method which is feasible for Applicant to pursue, other than the requested area variances;
(3) While the variances are substantial, there is no practicable way to achieve the necessary result other than the requested dimensional variances;
(4) The requested variances will have no adverse effect on the physical or environmental conditions in the neighborhood or district; and
(5) The practical difficulties are certainly not self-created by Applicant.

Wherefore, the Applicant, Oleg Alecksandrovich, respectfully requests that the ZBA agree to grant the requested variances, conditional on the Applicant's relocating the canopies to the proposed locations as shown on the Badey & Watson survey of October 5, 2016.

Shapiro Gettinger & Waldinger
Attorneys for Applicant, Oleg Alecksandrovich

By_____
Steven E. Waldinger, Partner

Dated: October 12, 2016

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ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Victor Cannistra,
Chairman
Ronald Carpaneto
Arnold Guyot
Bill Harden
Bruce Prince
Umberto Santaroni
Robert Scorrano

Meeting Minutes
October 18, 2016

The members present were: Chairman Cannistra, Mr. Carpaneto, Mr. Guyot, Mr. Harden, Mr. Prince, and Mr. Santaroni.

Mr. Scorrano was absent.

Building Inspector Efrem Citarella, the applicants and interested residents were also present.

Chairman Cannistra opened the meeting at 7:30 p.m. with the Pledge of Allegiance.

APPLICANTS:

MARTIN AND BETH ZUBATKIN – BZ16/16 – 28.06-1-21 (CARRYOVER)
An application for an Area Variance for the height of a fence, located in an R-80 Zoning District at **11 Highview Terrace, Somers**. The property is shown on the Town Tax Map as **Section: 28.06, Block: 1, Lot: 21.** RE: Section Schedule 170-49.

At the conclusion of the September 20, 2016 meeting, it was suggested that the Board members conduct a site visit to the property. Those visits happened on October 7 and 9. All but Mr. Harden participated.

Martin Zubatkin addressed the Board. He is seeking an Area Variance for the height of his existing fence. On the north and south sides of his property, the height is 7' and on the east and west, 8'. The maximum allowed by the Code of the Town of Somers is 6'.

Mr. Guyot thanked Mr. Zubatkin for allowing the Board members to visit his home. He appreciates how beautiful and well maintained the property is. There is a substantial buffer zone between his and his neighbor's property and it adequately hides the fence. Mr. Guyot asked if a Certificate of Occupancy was issued for his shed that is 100

square feet. Building Inspector Citarella said that a Building Permit, which is closed out by a Certificate of Occupancy is only required if a shed is larger than 144 square feet.

Giovanna Abbate of 13 Highview Terrace addressed the Board. Perhaps the fence cannot be seen from Mr. Zubatkin's property, but it can from hers and it is an eyesore. In 2012, Mr. Zubatkin sent tree cutters onto her property to cut trees and branches allowing the fence to be visible from her property. In her opinion, if Mr. Zubatkin was really interested in the safety of his family and property, why wouldn't he want the height of the fence near his driveway higher than 6'. Ms. Abbate read the three principles of granting a variance and she believes granting the variance would set precedence. Products like spray, netting, and deer resistant plants are available to protect ones property.

John Abbate of 13 Highview Terrace addressed the Board. His rooster was out at sun up, not 4:00 a.m., until sun down. When he was told to get rid of it, he did. Mr. Abbate has a garden with a 5' fence and a deer has never gotten into it. In his opinion, a 6' fence is high enough.

Mr. Guyot asked about the front of Mr. Zubatkin's property by the driveway. The fence in that area is only 4' high as there are plantings in front of it that are at least 5' in depth.

Chairman Cannistra was in admiration of Mr. Zubatkin's well-kept yard and said it was so well camouflaged that you couldn't even see the neighbor's house. Clearly the fence was designed to be as inconspicuous as possible. In addition, he did some research on-line and deer can jump a 6' fence pretty easily. Mr. Carpaneto said the recommendation is at least 8'.

Mr. Prince said for 18 years he lived in a deer zone in Armonk and has been in one in Somers for the past 12 years. Normally the deer follow the same path in unpopulated areas and are less likely to walk up someone's driveway.

Mr. Guyot made a motion for a Type II Action. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows…

POLL OF THE BOARD

Mr. Carpaneto	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Guyot made a motion to approve the Area Variance for the height of the fence with the following restrictions: if any repair/replacement(s) have to be made to the fence, the same materials or better have to be used, and if ever the applicant wants to increase the height of the fence, a new application must be submitted. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows…

POLL OF THE BOARD

Mr. Carpaneto	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

The Area Variance was granted.

KENNETH JAGR – BZ17/16 – 18.13-2-21

An application for an Area Variance for less than the required side yard set-back, located in an R-10 Zoning District at **72 Entrance Way, Purdys**. The property is shown on the Town Tax Map as **Section: 18.13, Block: 2, Lot: 21.** RE: Section Schedule 170:A1 of the zoning schedule.

Mr. Jagr addressed the Board. In February, he purchased the house, which was in foreclosure. He was unaware that the deck was not in compliance. Mr. Jagr is seeking a 5' side yard Area Variance. If granted, he will have architect plans drawn of the deck and will secure a Building Permit. The property next to the deck is densely wooded.

Aidrian O'Connor of 76 Entrance Way addressed the Board. The previous owner had a Building Permit and Certificate of Occupancy for the deck, but when a tree fell on it, it was repaired and extended. Before Mr. Jagr purchased the property, a tree fell on the roof, and the house was disintegrating. Not only was it unattractive to look at, but was devaluing the neighbor's property. As both a neighbor and the President of the Lake Purdys Property Owners Association, he is delighted with what Mr. Jagr has done to the house, as well as the property, and is in favor of the requested Area Variance.

Mr. Guyot made a motion for a Type II Action. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows…

POLL OF THE BOARD

Mr. Carpaneto	Aye
Mr. Guyot	Aye

Mr. Harden	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Carpaneto made a motion to approve the 5' side yard Area Variance for the deck. Mr. Santaroni seconded the motion.

A vote was then taken by the Board as follows…

POLL OF THE BOARD

Mr. Carpaneto	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

The Area Variance was granted.

OTHER BUSINESS:
A motion was made by the Chairman to approve the minutes of the September 20, 2016 meeting. All were in favor.

The next monthly meeting of the Zoning Board of Appeals is scheduled to be held on November 15, 2016 at 7:30 p.m. There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board