

Telephone
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ZONING BOARD OF APPEALS

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

Town of Somers

WESTCHESTER COUNTY, N.Y.



Victor Cannistra,
Chairman
Ronald Carpaneto
Bill Harden
Arnold Guyot
Dennis McNamara
Bruce Prince
Umberto Santaroni

AGENDA

November 18, 2014

7:30 PM

SOMERS TOWN HOUSE

1. **PAUL R. IACUONE, LLC** **BZ11/14 (CARRY OVER)**
An application for a Use Variance to permit a drive-thru restaurant, located in a Neighborhood Shopping District at **63 Route 6, Baldwin Place**. The property is shown on the Town Tax Map as **Section: 4.20, Block: 1, Lot: 5**. RE: Section Schedule 170-21.2.

2. **CHRISTOPHER & PATRICIA BALL** **BZ13/14**
An application for an Area Variance for less than the required rear yard set-back, located in an R-10 Residential Zoning District at **35 Tighe Road, Yorktown Heights**. The property is shown on the Town Tax Map as **Section: 16.10, Block: 4, Lot: 21**. RE: Section Schedule 170-48.

3. **OTHER BUSINESS** Approval of October 21, 2014 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

B Z NUMBER B213/14
DATE: 10/16/14

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

1. Christopher + Patricia Ball
(Name of appellant)

whose post office address is 35 Tighe Road, Yorktown Heights, NY
(Post office address) 10598

through Edward Mauro
(Name of attorney or representative if any)

whose post office address is 156 Diddell Road, Wappingers Falls, NY
(Post office address) 12590

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

(Give summary of ruling)
less than required rear yard set
back in an R-10 Residential
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: 16.10, Block: 4 Lot: 21

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

.....
.....
.....
.....
.....

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

.....
.....
.....
.....
.....

and such may be granted pursuant to

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

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

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 16th DAY October 2014

Denise E. Schirmer
NOTARY SIGNATURE

OWNER SIGNATURE

Denise E. Schirmer
NOTARY SIGNATURE

Ed L. M.
APPLICANT SIGNATURE

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Meeting Minutes
October 21, 2014

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

Building Inspector Efrem Citarella was also present, as well as the applicants and interested residents.

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

APPLICANTS:

PAUL R. IACUONE, LLC – BZ11/14 – 4.20-1-5 (Carry Over)

An application for a Use Variance to permit a drive-through restaurant, located in a Neighborhood Shopping District at **63 Route 6, Baldwin Place**. The property is shown on the Town Tax Map as **Section: 4.20, Block: 1, Lot: 5**. RE: Section Schedule 170-21.2.

Robert Gaudioso of Snyder & Snyder, LLP addressed the Board and gave a recap of what was presented at the September 16, 2014 Zoning Board of Appeals meeting. Since the last meeting, all Board members received a correspondence that listed the uses and purchase dates for all the commercial properties in the Neighborhood Shopping District in the vicinity of 63 Route 6. Mr. Gaudioso feels that based on the information he provided, granting a use variance to the applicant will have little, if any, precedential value. All the properties except 51 and 75 Route 6 were purchased prior to the rezoning in 1993 and as a result, any hardships are self-created. In addition, other than 75 and 77 Route 6, all the properties have businesses that are thriving and cannot meet the first use variance criteria because they are yielding a reasonable return. 75 Route 6 does not have the unique characteristics that 63 Route 6 has, constructed as a

restaurant with a series of failed restaurants, and as a result, none of the other commercial property owners in that District can claim they are entitled to a use variance.

Board members also received various recent receipts for water, insurance, electric, fuel oil, garbage removal and other miscellaneous maintenance. As previously indicated, illegal dumping on the property has created a constant expense for the owner resulting in violation notices, thereby creating further unnecessary hardship.

Mr. Iacuone approached the podium and indicated that in addition to ongoing discussions with the Chesire Coffee Co. in Connecticut regarding renting this property, he has also been speaking with representatives of Bean and Bean Organic Coffee in NYC as well.

Since the Route 6 corridor is currently subject to review by the Town and Planning Boards, Chairman Cannistra has asked for their, as well as the Town Planner's comments regarding this request. The Planning Board has put this item on the agenda of their November 12 meeting.

Mr. Santaroni made a motion to close the Public Hearing for this applicant. Mr. Harden 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. McNamara	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

JONATHAN GIBSON – BZ12/14 – 5.14-1-22

An application for a Special Exception Use Permit to harbor 6 chickens, located in an R-10 Residential Zoning District at **19 Acacia Drive, Mahopac**. The property is shown on the Town Tax Map as **Section: 5.14, Block: 1, Lot: 22**. RE: Section Schedule 170-69.

Mr. Gibson addressed the Board. He is seeking a variance to keep up to 6 chickens on his property. He currently has .66 acres and the Code states that .91 acres are required. Ninety-nine percent of the time, the chickens are kept in their coop that has a 15' by 20' pen that is 6' high. There are only hens, no roosters. They are only allowed to roam free on his property when he and/or his wife are supervising them. Mr. Gibson's indicated that his chickens are very domestic, as they are family pets. They

also keep them for their eggs and have no intention of breeding them. As of yet, the chickens have not been able to fly. Although the chickens are locked in their coop at night, it was recommended that a secure net be placed over the pen.

A list of neighbors who have no issues with Mr. Gibson keeping chickens on his property was provided. In addition, neighbor Mary Schleissmann of 18 Boxwood Drive addressed the Board and stated that she had no objections to this request.

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. McNamara	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Guyot made a motion to allow for up to 6 chickens, providing a net is secured over the pen. The permit expires in one year with an automatic month to month renewal providing there are no violations. Mr. McNamara 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. McNamara	Aye
Mr. Prince	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

All were in favor.

OTHER BUSINESS:

A motion was made by the Chairman to approve the minutes of the September 16, 2014 monthly meeting. All were in favor.

The next monthly meeting of the Zoning Board of Appeals is scheduled to be held on November 18, 2014. There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board

DRAFT