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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
Bruce Prince
Umberto Santaroni
Robert Scorrano



AGENDA

July 19, 2016
7:30 PM

SOMERS TOWN HOUSE
MEETING ROOM

1. **TIMOTHY HART AND
CATHERINE GALLAGHER**

BZ15/16

An application for an Area Variance for less than the required side yard set-back, located in an R-80 Residential Zoning District at **8 South Lane, Katonah**. The property is shown on the Town Tax Map as **Section: 48.17, Block: 1, Lot: 2**. RE: Section Schedule 170:A1 of the zoning schedule.

2. **OTHER BUSINESS**

Approval of June 21, 2016 Meeting Minutes.



ZONING BOARD OF APPEALS

Town of Somers

WESTCHESTER COUNTY, N. Y.

TOWN HOUSE
SOMERS, NEW YORK 10589

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IN THE MATTER OF THE APPEAL
OF
Catherine Gallagher and
Timothy Hart

B Z NUMBER BZ15/16
DATE: 7/5/16

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

1. Catherine Gallagher & Timothy Hart
(Name of appellant)

whose post office address is 8 South Lane, Katonah, NY
(Post office address)

through Heike A. Schneider, LLC 10534
(Name of attorney or representative if any)

whose post office address is 515 Croton Heights Road,
(Post office address) Yorktown Heights, NY 10598

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

2. Such appeal is taken from a ruling of Eileen Citarella
(Name of officer)

Building Inspector, made on June 21, 2016
(Office held)

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

(Give summary of ruling)

Area Variance for less than the required
side yard set-back in an R-80
zone for a 2nd story addition
variance = 9'7"

3. The property which is the subject of the appeal is located at or known as

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

Town Tax Map as Section: 48.17, Block: 1 Lot: 2

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

8 South Lane

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

Area Variance for less than the required side yard set-back in an R-80 zone for a 2nd story addition
Variance = 9'7"

and such may be granted pursuant to 170:11 of the zoning schedule

(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 30th DAY June 20 16
Denise Schirmer x Timothy Hunt
NOTARY SIGNATURE 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

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Meeting Minutes

June 21, 2016

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

Building Inspector Efreem 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:

ANTHONY BONIELLO – BZ08/16 – 47.16-1-31

An Area Variance for less than the required road frontage to create a lot for a new one family dwelling, located in an R-120 Residential Zoning District at **43 Moseman Avenue, Katonah**. The property is shown on the Town Tax Map as **Section: 47.16, Block: 1, Lot: 31**. RE: Section Schedule 170:A1 of the zoning schedule.

At the May 17, 2016 meeting, Mr. Boniello addressed the Board. He purchased a 24 acre parcel on Moseman Avenue in 1992 and it was up zoned to 3 acres in June 1999. Mr. Boniello would like to subdivide the property to build a new house, but is in need of a 41' Area Variance for road frontage. 250' is needed and he has only 209'. The lot meets the R-120 requirement and is 129,971 square feet. The driveway for the new home will extend off the existing driveway.

Mr. Guyot made a motion for a Type II Action. Mr. Carpaneto seconded the motion. All were in favor. Mr. Carpaneto made a motion to grant the 41' Area Variance for road frontage. Mr. Harden seconded the motion. All were in favor and the Area Variance was granted.

Mr. Boniello notified the Board that the Planning Board would like lead agency status for this subdivision project. Mr. Harden made a motion to give the Planning Board lead agency status for this subdivision project. Mr. Carpaneto seconded the motion. All were in favor.

On June 2, 2016, the Zoning Board received a memo from Director of Planning, Syrette Dym indicating that the Planning Board should refer the Negative Declaration to the Zoning Board so they can take the following actions at this evenings meeting.

- Rescind Type II action vote taken at meeting of April 19, 2016
- Rescind variance vote taken at meeting of April 19, 2016
- Accept Negative Declaration from Planning Board
- Re-vote to grant variance and refer to Planning Board

It was noted by the Chair that the aforementioned votes were taken at the meeting of May 17, 2016, not April 19, 2016.

Mr. Carpaneto made a motion to rescind the Type II Action vote taken at the meeting of May 17, 2016. 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. Scorrano	Aye
Chairman Cannistra	Aye

The Type II motion was rescinded.

Mr. Carpaneto made a motion to rescind the Area Variance vote taken at the meeting of May 17, 2016. 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. Scorrano	Aye
Chairman Cannistra	Aye

The Area Variance motion was rescinded.

Mr. Carpaneto made a motion to accept the Negative Declaration from Planning Board. 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. Scorrano	Aye
Chairman Cannistra	Aye

The Negative Declaration from the Planning Board was accepted.

Mr. Carpaneto made a motion to re-vote to grant the 41' Area Variance for road frontage. 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. Scorrano	Aye
Chairman Cannistra	Aye

The Area Variance was granted.

NICHOLAS AND JULIANN CHAKMAKIAN – BZ09/16 – 16.11-1-10

An application for a Special Exception Use Permit for a new accessory apartment in an existing one family dwelling, located in an R-40 Residential Zoning District at **3 Benjamin Green Lane, Mahopac**. The property is shown on the Town Tax Map as **Section: 16.11, Block: 1, Lot: 10**. RE: Section Schedule 170:70.

Last month, Mrs. Chakmakian addressed the Board. She would like to use existing space in her home to create a two story accessory apartment for her parents to live in. Currently the 1st floor consists of a living room, office, bathroom and bar and the 2nd floor is an unfinished attic. The proposal for the accessory apartment is for the 1st floor to consist of an eat-in kitchen, dining room, living room, and bathroom, totaling 1,055 square feet, and the 2nd floor will have a bathroom and bedroom, totaling 778 square feet.

The house was built after 1992 and the maximum for an accessory apartment is 800 square feet.

The overall concern of the Board was that if they approved the variances, the accessory apartment would be more than double of what is allowable by code, and they don't want to set that precedence.

After a lengthy discussion and review, the applicant said she would be willing to put the accessory apartment on the 1st floor (consisting of an eat-in-kitchen, living room, bedroom and bathroom); turn a bedroom in her house into an office by removing the door and opening the door way; and put a bedroom and bathroom on the second floor. This in turn would not change the bedroom count as stipulated by the septic plan. This option would still exceed the 800 square foot allowance by 255 square feet rather than 1,033.

The Board decided they wanted to consult the Town Attorney, Roland Baroni who indicated that he did not have legal guidance to offer on this matter. He went on to say that the Zoning Board of Appeals has the authority to grant the requested variance and it also could make a supportable finding to deny the application. The law is clear that each case stands on its own facts and no precedent is established when an application is granted and another denied.

Mrs. Chakmakian addressed the Board again. The overall consensus of the Board continues to be the concerns over the ultimate size of the apartment if the Area Variance was granted.

Mr. Guyot made a motion for a Type II Action. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Harden made a motion to deny the application for a Special Exception Use Permit for a new accessory apartment. Mr. Guyot 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. Scorrano	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit was denied.

SALVATORE CASSANITI – BZ11/16 – 4.20-1-1

An application for an Area Variance for more than the number of signs allowed for a gasoline station, located in a Neighborhood Shopping District at **55 Route 6, Baldwin Place**. The property is shown on the Town Tax Map as **Section: 4.20, Block: 1, Lot: 1**. RE: Section Schedule 170-126.

Matt Zambrano of M. Zambrano Enterprises, LLC addressed the Board. In May he presented a sign proposal to the Architectural Review Board which was denied because the request was for more than the amount of signs allowed. His clients would like to add illuminated Sunoco signs to the two short sides of the canopy over the filling stations, as well as the long side that faces the street, and Official Fuel NASCAR decals to the two longer sides. A discussion was held and all agreed that the Official Fuel NASCAR decal was not necessary on the long side of the canopy facing the building. In addition, if requested, the Board would not be in favor of placing a Sunoco sign on the building, as a Dunkin' Donut sign already exists.

Mr. Guyot made a motion for a Type II Action. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Guyot made a motion to approve illuminated Sunoco signs on the two short sides of the canopy, as well as the long side facing the street, and an Official Fuel NASCAR decal on the long side facing the street. In addition, if requested, the Board would not be in favor of placing a Sunoco sign on the building, as a Dunkin' Donut sign already exists. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

The Area Variance was granted.

EDGAR SANCHEZ – BZ12/16 – 16.14-3-8

An application for Area Variances for less than the required front and side yard setbacks, located in an R-10 Residential Zoning District at **2 Wright Road, Shenorock**. The property is shown on the Town Tax Map as **Section: 16.14, Block: 3, Lot: 8**. RE: Section Schedule 170:A1 of the zoning schedule.

Joel Greenberg of Architectural Visions, PLLC addressed the Board. Mr. Sanchez would like to add a 2nd story to his existing 1 ½ story non-conforming house. In doing so, a 3' front yard Area Variance is needed, as well as a 7' side yard. The footprint is not changing. It will remain a two bedroom house and they will be located on the 2nd floor. Maria Mauriello of 4 Wright Road wanted clarification that the 2nd story would not extend past the 1st story. There are other two story homes on the street. Mr. Greenberg will confirm that the owners have had their septic cleaned within the last five years.

Mr. Guyot made a motion for a Type II Action. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Guyot made a motion to approve the 3' front yard Area Variance, as well as a 7' side yard Area Variance. 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. Scorrano	Aye
Chairman Cannistra	Aye

The Area Variances were granted.

ALMA SOLANO – BZ13/16 – 36.08-1-45

An application for an Area Variance for less than the required front yard set-back, located in an R-10 Residential Zoning District at **5 Route 118, Amawalk**. The property is shown on the Town Tax Map as **Section: 36.08, Block: 1, Lot: 45**. RE: Section Schedule 170:A1 of the zoning schedule.

Rey Solano addressed the Board. He is seeking an Area Variance for a two car garage accessory structure in the front yard. No environmental permits are needed. The area above the garage will be used for storage. There will be electric in the garage, but no bathroom or plumbing.

Mr. Guyot made a motion for a Type II Action. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Carpaneto made a motion to approve the front yard Area Variance for a two car garage. 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. Scorrano	Aye

Chairman Cannistra

Aye

The Area Variance was granted.

DENISE LEHMAN RIPPON – BZ14/16 – 5.19-1-14

An application for an Area Variance for less than the required side yard set-back, located in an R-10 Residential Zoning District at **25 Larch Drive, Mahopac**. The property is shown on the Town Tax Map as **Section: 5.19, Block: 1, Lot: 14**. RE: Section Schedule 170:A1 of the zoning schedule.

Ms. Lehman Rippon is seeking a 1.5' side yard Area Variance for a pre-existing small one story addition that houses a washer and dryer. The work was done about ten years ago. She hired a contractor to do the project and had no idea that permits were required. The house is now up for sale, so the situation has to be rectified. There have been no complaints or concerns from the neighbors and there is heavy shrubbery screening on the side of the house where the addition is located.

Mr. Guyot made a motion for a Type II Action. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

All were in favor.

Mr. Guyot made a motion to approve the 1.5' side yard Area Variance for a small addition that houses a washer and dryer. Mr. Carpaneto 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. Scorrano	Aye
Chairman Cannistra	Aye

The Area Variance was granted.

OTHER BUSINESS:

A motion was made by the Chairman to approve the minutes of the May 17, 2016 meeting. All were in favor.

The next monthly meeting of the Zoning Board of Appeals is scheduled to be held on July 19, 2016 at 7:30 p.m. There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Denise Schirmer, Secretary
Zoning Board of Appeals

cc: Town Board
Town Clerk
Planning and Engineering
Planning Board

DRAFT