

Telephone  
(914) 277-5582

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## ZONING BOARD OF APPEALS

TOWN HOUSE  
ANNEX  
337 ROUTE 202  
SOMERS, NY 10589

# Town of Somers

WESTCHESTER COUNTY, N.Y.



## AGENDA

July 16, 2019  
7:30 PM

### SOMERS TOWN HOUSE MEETING ROOM

- 1. MARGARET GEMBECKI & MADELEINE MINNUCCI**     **2019:ZB22**

An application for an Area Variance for less than the required lot size for a pre-existing non-conforming two family dwelling for a 2<sup>nd</sup> story addition in an R-40 Residential District at **15 Stonewall Drive, Granite Springs**. The property is shown on the Town Tax Map as **Section: 26.07, Block: 1, Lot: 5**. RE: Section Schedule 170:A1 Zoning Schedule Part 1.
  
- 2. LORI ENSINGER AND WILLIAM KUEBLER**     **2019:ZB23**

An application to appeal the Building Inspector's interpretation that the enclosed tennis courts are not an office or studio and, therefore, the use of the enclosed tennis courts on the property by a resident tennis professional teaching lessons and providing instruction and training to private students is not permitted by the Town's Zoning Ordinance. As a related matter, the applicant seeks to eliminate a condition in a 1973 Variance that states the enclosed tennis courts are private not commercial since the condition potentially conflicts with the home

occupation use in an R-120 Residential District at **24 Orchard Hill Road, Katonah**. The property is shown on the Town Tax Map as **Section: 37.10, Block: 1, Lot: 13.1**. RE: Section Schedule 170-3 and 170-11 (A), (B) (5) and (6).

**3. CROSSROADS AT  
BALDWIN PLACE**

**2019:ZB24**

An application for an Area Variance for a sign that exceeds the maximum size in a Neighborhood Shopping District at **57 Route 6, Baldwin Place**. The property is shown on the Town Tax Map as **Section: 4.20, Block: 1, Lot: 3.1-01**. RE: Section Schedule 170-126-A(3).

**4. OTHER BUSINESS**

Approval of June 11, 2019 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  
Margaret Gembbecki +  
Madeleine Minnucci

B Z NUMBER 2019: ZB22  
DATE: 6/13/19

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

1. Margaret Gembbecki + Madeleine Minnucci  
(Name of appellant)

whose post office address is 114 Pembroke Drive, Yonkers, NY  
(Post office address)

through ..... 10701  
(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 Thomas J. Toome, Jr.  
(Name of officer)

Building Inspector, made on June 11, 2019  
(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 less than the required  
lot size in an R-40 Residential District  
for an addition to an existing two-family dwelling

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

Town Tax Map as Section: 26.07, Block: 1, Lot: 5

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 .....

15 Stonewall Drive

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

The variance is requested for the proposed enlargement of an existing non-compliant structure which does not meet the minimum lot size by 18,529 square feet.

and such may be granted pursuant to Section 170: A1 Zoning Schedule Part 1

(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 13th DAY June 20 19

Denise Schirmer
NOTARY SIGNATURE

Madeleine Mennucci
Margaret Hembuecki
OWNER SIGNATURE

DENISE SCHIRMER
Notary Public State of New York
No. 01SC6298242
Qualified in Dutchess County
Commission Expires March 10, 2022

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

Lori Ensinger and William Kuebler

B Z NUMBER 2019: ZB23

DATE: 6/14/19

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

1. Lori Ensinger

(Name of appellant)

whose post office address is 24 Orchard Hill Road, Katonah, NY 10536

(Post office address)

through Hocherman Tortorella & Wekstein, LLP, By: Geraldine N. Tortorella,  
Esq.

(Name of attorney or representative if any)

whose post office address is One North Broadway, Suite 701, White Plains, NY 10601

(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 Thomas J. Tooma, Jr.

(Name of officer)

Building Inspector

(Office held)

made on June 13, 2019

which ruling was filed on June 13, 2019

first received by appellant on June 13, 2019

; and notice of such ruling was first received by appellant on June 13, 2019

; such ruling determined that enclosed tennis courts are not an "office" or "studio" and, therefore,

(Give summary of ruling)

the use of enclosed tennis courts on the Property by a resident tennis professional teaching lessons and providing instruction and training to private students is not permitted by the Town's Zoning Ordinance. As a related matter, the Appellant seeks to eliminate a condition in a 1973 Variance that states the enclosed tennis courts are "private not commercial" since the condition potentially conflicts with the home occupation use.

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

24 Orchard Hill Road, Town of Somers

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

and is shown on the

Town Tax Map as Section: 37.10, Block: 1, Lot: 13.10-1-13.1

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) and to obtain an amendment to a prior 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 .....  
24 Orchard Hill Road

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

Amendment of a prior

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

Please see letter of Hocherman Tortorella & Wekstein, LLP dated June 14, 2019

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

and such may be granted pursuant to...Town of Somers Zoning Ordinance  
Sections 170-11(A),(B)(5) and (6) and 170-3

(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 14<sup>th</sup> DAY of June 20 19

Geraldine N. Tortorella  
NOTARY SIGNATURE

Lori Ensinger  
OWNER SIGNATURE Lori Ensinger

GERALDINE N. TORTORELLA  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 02TO4933447

Qualified in Westchester County  
NOTARY SIGNATURE  
My Commission Expires May 09, 20 22

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  
Crossroads at Baldwin Place

B Z NUMBER 2019: ZB 24

DATE: 6/28/19

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

1. Ken Kearney  
(Name of appellant)

whose post office address is 34 Clayton Blvd, Suite A, Baldwin Place,  
(Post office address) NY 10505

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 Architectural Review Board  
(Name of officer)

made on June 27, 2019  
(Office held)

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

(Give summary of ruling)  
An application for an Area Variance for a  
sign that exceeds the maximum  
size in a Neighborhood Shopping  
District

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

57 Route 6  
(Street and number or distance from and names of nearest intersecting streets)

Town Tax Map as Section: 4.20, Block: 1, Lot: 3.1-01

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 .....

57 Route 6

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

The maximum size permitted is 4' by 5'.

and such may be granted pursuant to 170-126-A(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 28<sup>th</sup> DAY June 20 19

Denise Schirmer

NOTARY SIGNATURE

Ken [Signature]

OWNER SIGNATURE

DENISE SCHIRMER  
Notary Public State of New York  
No. 01SC6298242  
Qualified in Dutchess County  
Commission Expires March 10, 20 22

NOTARY SIGNATURE

APPLICANT SIGNATURE



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ZONING BOARD OF APPEALS

TOWN HOUSE  
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*Town of Somers*

WESTCHESTER COUNTY, N.Y.



**Meeting Minutes**

June 11, 2019

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

Building Inspector Tom Tooma and interested residents were also present.

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

**APPLICANTS**

**BERNADETTE CARNOW, DENNIS AND KATHLEEN HALLIGAN – 2019:ZB16 – 38.09-1-6**

An application to amend a Special Exception Use Permit of moving the existing 2-bedroom accessory apartment from the 2<sup>nd</sup> floor to the basement, as well as an Area Variance because the apartment exceeds the 800 square foot limitation in an existing one family dwelling, located in an R-80 Residential District at 149 Route 100, Katonah. The property is shown on the Town Tax Map as Section: 38.09, Block: 1, Lot: 6. RE: Section Schedule 170-70.

Last month, Mrs. Carnow's husband Ian Carnow addressed the Board. His in-laws, also the co-owners of the property, Dennis and Kathleen Halligan live in the two-bedroom accessory apartment which is on the 2<sup>nd</sup> floor of the existing dwelling. In an effort to maintain the space they currently have and to eliminate walking the stairs, they would like to relocate the accessory apartment to the basement. The dwelling will remain a 5- bedroom home. A one car garage would be eliminated and there are no plans to replace it. A lengthy discussion ensued. The members were concerned about the amount of the Area Variance, 1,183 square feet, which is slightly larger than the existing accessory apartment. In addition, the proposed basement plan includes a study which could potentially be used as another bedroom. The Board asked that the

applicant obtain Westchester County Department of Health approval before appearing before them again.

The application was adjourned.

This evening, Mr. Carnow addressed the Board. A decision has been made to reconfigure the proposal in an effort to reduce the amount of the variance. The total square footage of the accessory apartment is now 834. The garage will remain and the apartment will include one bedroom, living/dining area and kitchen. The total number of bedrooms remains at five.

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
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

Mr. Guyot made a motion to amend the Special Exception Use Permit to move the existing accessory apartment from the 2<sup>nd</sup> floor of the existing one family dwelling to the basement, as well as to grant an Area Variance because the apartment exceeds the 800 square foot limitation. The accessory apartment will have one bedroom. Mr. Harden seconded the motion.

A vote was then taken by the Board as follows...

#### **POLL OF THE BOARD**

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Aye
Chairman Cannistra	Aye

The Special Exception Use Permit and Area Variance were approved.

**ROBERT AND DONNA FLES – 2019:ZB18 – 28.17-1-4**

An application for an Area Variance for a portion of an existing stockade fence to exceed the height restriction by 2' in an R-80 Residential District at 1 Otha Drive, Katonah. The property is shown on the Town Tax Map as Section: 28.17, Block: 1, Lot: 4. RE: Section Schedule 170-49.

Robert Fles addressed the Board. He raised the fence on only the south side of his property facing Plum Brook Road to 8' in an effort to reduce the lighting from the parking lot as well as the employee's cars and delivery trucks in the Paramount at Somers parking lot which is directly across the street, as well as to avoid seeing the overflowing dumpsters and employee smoking section. Two of his neighbors submitted letters in support of the application.

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**

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Abstain
Chairman Cannistra	Aye

Mr. Guyot made a motion to grant a 2' Area Variance on the height of the existing fence along the south side of the property. If the fence needs to be replaced, it must be with a wooden stockade fence of consistent appearance. Mr. Harden seconded the motion.

A vote was then taken by the Board as follows...

**POLL OF THE BOARD**

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Mr. Santaroni	Abstain
Chairman Cannistra	Aye

The Area Variance was approved.

**CHRISTINE CRUISIUS-SMITH – 2019:ZB19 – 17.10-1-64**

An application for an Area Variance for lot coverage for both the principal building additions and accessory improvements in an R-40 Residential District at 21 Lynway Lane, Somers. The property is shown on the Town Tax Map as Section: 17.10, Block: 1, Lot: 64. RE: Section Schedule 170-40A.

Architect David Tetro addressed the Board. The applicants are building a three-car garage, deck and front porch and are in need of a variance for lot coverage. The existing driveway is being relocated. Although the building lot coverage is over, the impervious surface is being reduced. The existing house is a 1 story ranch style and non-conforming. A second story addition is being added to accommodate all the bedrooms, leaving the main floor for livable space only, but the footprint will not change. The applicants are in need of a garage to accommodate 3 cars because they currently have four drivers and 4 cars. There have been no objections from the neighbors and all members agreed it is an improvement from what is existing.

8:10 p.m. – Mr. Santaroni left the meeting as he was not feeling well.

Mr. Harden 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
Ms. D'Ippolito	Aye
Mr. Guyot	Abstain
Mr. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Mr. Harden made a motion to grant an Area Variance for lot coverage for a three-car garage, deck and front porch with a condition that the existing driveway will be removed and replaced with grass and plantings. Mr. Newman seconded the motion.

A vote was then taken by the Board as follows...

**POLL OF THE BOARD**

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Abstain
Mr. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

**ROBERT AND JENNIFER GAJDA – 2019:ZB20 – 5.15-3-64**

An application for a rear yard Area Variance for a deck addition in an R-10 Residential District at 3 Greenwood Drive, Mahopac. The property is shown on the Town Tax Map as Section: 5.15, Block: 3, Lot: 64. RE: Section Schedule 170:A1 of the Zoning Schedule.

Robert Gajda addressed the Board. They are seeking a 5.65' rear yard Area Variance for an 8' by 13' deck addition which will be on the side of the house opposite of the septic. The deck is low to the ground and will be accessed from a glass sliding door in their kitchen with three steps leading down to it. It was noted that the walkway on that side of the house is no longer there. There is quite a distance between their house and the nearest neighbor's house. Although not part of the application, a 2<sup>nd</sup> story addition is being added to the house. No one has expressed any objections to the project.

Mr. Guyot 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**

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

Ms. D'Ippolito made a motion to grant a rear yard Area Variance of 5.65' for a deck addition. Mr. Guyot seconded the motion.

A vote was then taken by the Board as follows...

**POLL OF THE BOARD**

Mr. Carpaneto	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Harden	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Area Variance was approved.

**LORI ENSINGER AND WILLIAM KUEBLER – 2019:ZB21 – 37.10-1-13.1**

An application for a Special Exception Use Permit for a prospective buyer to purchase the property as a residence and conduct a home occupation of teaching tennis lessons inside a pre-existing non-conforming recreational building that houses 2 tennis courts of which a conservation easement doesn't allow for expansion. An Area Variance is needed because of the distance of the recreational building to the property line in an R-120 Residential District at 24 Orchard Hill Road, Katonah. The property is shown on the Town Tax Map as Section: 37.10, Block: 1, Lot: 13.1. RE: Section Schedule 170-82D.

Chairman Cannistra announced that the applicant withdrew their application.

Matthew and Wen Fury of 20 Hilltop Road asked what the process was for filing a complaint, which was explained by Chairman Cannistra.

**OTHER BUSINESS:**

The minutes of the May 21, 2019 meeting were approved as submitted.

Chairman Cannistra regretfully reported that Umberto Santaroni is retiring after many, many years of services on the Board. He was thanked for his contributions and will be missed.

The next monthly meeting of the Zoning Board of Appeals will be held on July 16, 2019 at 7:30 p.m. There being no further business, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board