

(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**

August 19, 2025

The meeting was called to order by Chairman Cannistra at 7:30 p.m. with the Pledge of Allegiance.

The members present were: Mr. Burke, Mr. Cannistra, Ms. D'Ippolito, Mr. Guyot, and Mr. Newman.

Mr. Harden and Mr. Lansky were absent.

Mr. Burke attended the meeting via Zoom.

Interested residents, and Building Inspector Tom Tooma were also present.

**APPLICANTS**

**Casey and Lauren O'Donnell – 2025:ZB12 – 37.13-1-2**

An application for a side yard area variance for a proposed inground swimming pool to an existing one family dwelling in an R-80 Residential District at 27 Bedell Road, Katonah. The property is on the Town Tax Map as Section: 37.13, Block: 1, Lot: 2. RE: Section Schedule: 170:A1 Zoning Schedule Part 1.

At the July 15<sup>th</sup> meeting, Lauren O'Donnell addressed the Board. Last year, she and her husband started exploring the possibility of installing an inground swimming pool. In April 2025, the Westchester County Department of Health change the requirement of the distance of the pool to the well head from 35' to 50'. As a result of this new ruling, a different location of the pool had to be determined. Mrs. O'Donnell had a landscape architect, the pool company and Steve Woelfle, Town Principal Engineering Technician visit her property on more than one occasion. The 2 ½ acre lot consists a lot of trees and steep slopes, some of which are like cliffs. All agreed that there was one location in

the side yard of her property that was the flattest and required little disruption of the existing topography for the location of the pool. In addition, the size of the pool would have to be customized because of the tightness of that area. One corner is too close to the property line, 15' is required and 5' exists therefore a 10' variance would be needed. The exterior of the pool would have little to no patio area. Included in the Board member's packets was a letter from the neighbor on that side of the property at 25 Bedell Road who had no issues with the location of the proposed pool, however the neighbor on the other side of the property at 29 Bedell Road emailed Mrs. Schirmer a request for a privacy fence. That email was shared with the Board, however, Mrs. O'Donnell was quite puzzled by that request as they would not be able to see the pool from their property. Recently the O'Donnell's planted live screening on that side of the property but would not object to a privacy fence.

The overall feeling of the Board was that a variance of 10' was too substantial, but some would be okay with 5' at the most. A lengthy discussion took place with ideas shared on how to eliminate the need for a variance or lessen it. An above ground pool was considered but would cost as much as an inground pool and ultimately, they wanted a pool that had gradual depth. The location of the pool could be moved 2 to 3' in that area, but any more than that would require substantial grading and the construction of a retaining wall that could cost as much as \$30,000. All agreed that this is definitely a unique lot and a site visit would be helpful in making a decision. The O'Donnell's have spray painted the exact location of the pool and Mrs. Schirmer will let everyone know when they can visit the property.

The application was adjourned until the August 19<sup>th</sup> meeting.

All of the Board members visited the property since the last meeting and now have a clear understanding of the issue with the placement of the pool. Although the request of a 10' variance is substantial and a smaller variance would be preferred, the majority understand the need for the 10' variance. In addition, the size of the proposed pool is very modest. The only other alternative might be to move the well which would be an extremely expensive proposition.

Cecilia Depinho of 29 Bedell Road is requesting privacy between her property and the O'Donnell's as she doesn't want to see the pool or people swimming in it. There was some confusion as Ms. Depinho would not be able to see the pool from her property as its proposed location is on the extreme opposite side of the O'Donnell's property. She apologized for misunderstanding and has no concerns.

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. Burke

Aye

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

A motion was made by Ms. D'Ippolito and seconded by Mr. Guyot to approve the 10' side yard variance for a proposed inground swimming pool.

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

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

Mr. Burke	Nay
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Variance was approved.

#### **Joseph Casella and Anuar Gallego – 2025:ZB13 – 16.14-2-69**

An application for a side yard area variance for a proposed deck addition to an existing one family dwelling in an R-10 Residential District at 24 Miller Avenue, Yorktown Heights. The property is on the Town Tax Map as Section: 16.14, Block: 2, Lot: 69. RE: Section Schedule: 170:A1 Zoning Schedule Part 1.

Mr. Casella addressed the Board. He would like to construct a deck on the side of his house. 25' is required and 24.7' is existing, therefore a variance of 0.3' is being requested. This would allow for the deck to line up with the side of the house.

Mr. Guyot made a motion for a Type II action. Mr. Newman seconded the motion.

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

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

Mr. Burke	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

A motion was made by Ms. D'Ippolito and seconded by Mr. Newman to approve the 0.3' side yard variance for a proposed deck.

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

## POLL OF THE BOARD

Mr. Burke	Aye
Ms. D'Ippolito	Aye
Mr. Guyot	Aye
Mr. Newman	Aye
Chairman Cannistra	Aye

The Variance was approved.

### **DYNAMITE PROPERTIES, INC. – 2025:ZB14 – 15.12-2-1 and 5**

An application for a variance for the width of a common driveway at 0 Landlocked, Green Tree Road, Yorktown Heights. The property is on the Town Tax Map as Section: 15.12, Block: 2, Lot: 1 and 5. RE: Section Schedule: 170:A1 Zoning Schedule Part 1.

Attorney Mike Caruso addressed the Board. The background and history of the property and proposed projects was explained. His client, Thomas Racek owner of Dynamite Properties, Inc. is proposing to build a 3-lot subdivision, which is landlocked. Mr. Racek will live in one of those houses. This project proposal has been in front of the Planning Board since 2022. In order to access the property from the cul-de-sac end of Green Tree Road, the common driveway would have to intersect with the North County Rail Trail. The common driveway is required to be 16' in width, currently it is with a 100' section in the middle that is only 12' wide with 2' wide shoulders on either side. Mr. Caruso is requesting a variance for that middle section to be 12' wide with 2' shoulders on either side. It was noted that the NYS DOT is aware of this current proposal and has issued no further comments so one is to assume that they are in favor of that current design. In addition, the Bureau of Fire Prevention has indicated that they have no concerns over the width of the proposed middle section of the common driveway. Two lock gates would be installed only allow for one vehicle to cross the Rail Trail at a time, and emergency services would have full access. A concern for safety of the users of the Rail Trail and the drivers of the cars entering and exiting the lock gate was very much a concern regardless of the request for a variance for a variance of a 12' width for 100'. Mr. Caruso is of the opinion that the Board should be making their decision based on there being no adverse environmental impact, the variance being requested is not substantial and not be able to access the property was not self-created. The Board was provided a copy of a letter from Ken Kearney, the owner of the abutting property indicating that he told the Planning Board in September 2023 and reaffirmed as recently as March 2025 that he would be open to providing access from his property to the Dynamite Properties lot as a gesture of good will. Mr. Caruso said this is the first time he is hearing of that offer, but at the end of the day doesn't feel as if it would be an ideal alternative for a variety of reasons, including it would be a much lower quality of access. Since it is not simply a matter of issuing a variance for the 100' of common driveway that would be 12', the Board felt strongly that the property owner talk to Mr. Kearney about his offer. The number of vehicles that could end up crossing the Rail Trail on a given day could be substantial. Perhaps a delivery drop box could be placed on the cul-

de-sac to prevent unnecessary deliveries to have to cross the Rail Trail. It was suggested that the Rail Trail be diverted with a bridge at that area so when crossing the Trail, no one would be on it at that point.

Mike McBride of 556C Heritage Hills addressed the Board. He is retired from the NYS DOT. During his employee from 1997 to 2013, his jurisdiction was Northern Westchester and when initial plans for this project were in front of the Planning Board, he was at all of those meetings, but unfortunately was never permitted to speak. At that time, the NYS DOT was not in favor of the Rail Trail being crossed as safety of the public was the top priority. He went on to say that just because currently the NYS DOT has had no comments about this current proposal it doesn't necessarily mean they are in favor of it. The duty of any engineer is design something that is as safe as possible. In his opinion, the easement on this parcel was intended for use of transporting farm animals when it was developed in the 1880's, not allowing vehicles to cross an area that is used by pedestrians and bicycle riders. Although there are other trail crossings in Somers, some may not be as dangerous as allowing the Trail to be crossed in this area and the circumstances can be different. In closing, Mr. McBride wondered if the NYS DOT was aware of Mr. Kearney's offer and he added that Mr. Kearney told him personally that the owners of Dynamite Properties, Inc. were aware of his offer to provide access to their property avoiding the need to cross the North County Rail Trail.

Anthony Tomassetti of 14 Green Tree Road addressed the Board. He and many of the people in the room this evening attended the Planning Board meetings even though they were not permitted to speak in 2023 when this project became a proposition. 99.9% of the concerned residents opposed allowing the North County Rail Trail to be crossed. He understands that the property is landlocked and they need access, but there must be another safer way. The offer of Mr. Kearney must be explored.

Ed Opfer of 11 Green Tree Road addressed the Board. The overall feeling of the Trail crossings is that they are dangerous so why would allowing another crossing be under consideration to be approved. Crossing these trails will only be stopped when there is a serious accident or fatality.

Derek Mounsey of 6 Green Tree Road addressed the Board. He is concerned about who would be liable if there is an accident while someone is crossing the Rail Trail. It was explained that is a legal issue. Mr. Mounsey also asked where the garbage for these three proposed houses would be picked up and it was explained that would be for the Planning Board to decide.

Maureen Bodnar of 2 Green Tree Road addressed the Board. The North County Rail Trail is 4' wide and was an old railroad bed to be used safely by pedestrians and bicyclists. It was not meant to be crossed by vehicular traffic. This disruption should absolutely not be permitted and alternative access to the property needs to be explored.

Nancy Marrone of 25 Cortlandt Manor Road addressed the Board. Allowing the Rail Trail to be crossed is dangerous for both the users and the vehicle drivers. Those

existing are also dangerous. The crossing on Route 35 is an accident waiting to happen. Another crossing should not be permitted.

Given all the concerns that were shared, the application was adjourned until the September 16<sup>th</sup> meeting and in the meantime, Mr. Caruso will reach out to Mr. Kearney.

**Minutes** – Mr. Burke had a correction to the minutes of the July 15, 2025 meeting. On page 4, in the 2<sup>nd</sup> paragraph, the last part of the 4<sup>th</sup> sentence should be changed to read, “the pool to the well head from 35’ to 50’.”, not the septic system. The minutes were approved as corrected.

The next monthly meeting of the Zoning Board of Appeals will be held on September 16, 2025 at 7:30 p.m.

With there being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Denise Schirmer, Secretary  
Zoning Board of Appeals

cc: Town Board  
Town Clerk  
Planning and Engineering  
Planning Board