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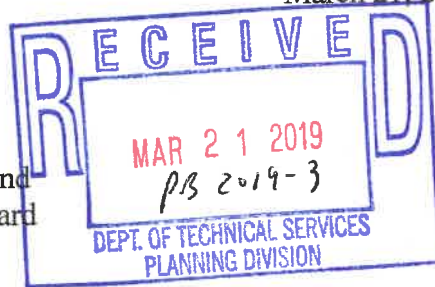
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March 21, 2019

**BY FACSIMILE**

Loretta Taylor, Chairperson and  
Members of the Planning Board  
Town of Cortlandt  
1 Heady Street  
Cortlandt Manor, New York 10567



Copies ..... 1 ... Planning Board  
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..... 1 ... DOTS Director  
..... C.A.C.  
..... A.R.C.  
..... Applicant  
..... \_\_\_\_\_  
..... \_\_\_\_\_  
Sent 3/22/19

Re: Special Use Permit  
Accessory Apartment  
48 Pond Meadow Road  
Cortlandt, New York ("Property")

Dear Board Members:

I represent Susan P. Todd and Andrew L. Young ("Applicants"), residents and owners of 48 Pond Meadow Road, Cortlandt, New York, who are submitting a request for approval of a special use permit to create an accessory apartment in the accessory structure on their 7 acre property.

I write in response to the Memorandum of Ralph Mastromonaco, P.E. dated March 5, 2019 ("Engineer's Memo"), which raises several issues regarding the application and which concludes that the application should be denied because the structure in which the accessory apartment will be located "is not an accessory structure."

One issue is based on the proposition that the "front structure in question is actually a separate house not an accessory structure since accessory structures may only be placed in a side yard or a rear yard".

A front yard is defined as "a yard extending across the full width of the lot and lying between the front lot line and the nearest line of the building." Town of Cortlandt Code ("Code"), Chapter 307-4. A front lot line is defined as a line which "separates a lot from a street or highway right-of-way". Code, Chapter 307-4.

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The Todd/Young property does not abut a street or a highway right-of-way. Access to the property is by way of a private right-of-way extending approximately 1,000 feet from East Mount Airy Road. The Todd/Young property does not have a front lot line, and therefore does not have a front yard as defined in the Code.

This makes perfect sense. The purpose of side, front and rear yard restrictions is to protect the views from public streets and from neighbors. Such restrictions are not required for homes on private rights of way. In any event, the accessory structure clearly stands to the side of the Applicants' residence, and therefore is effectively in what would commonly be understood to be the side yard.

The Engineer's Memo proposes that the Applicants need to obtain a "use variance to permit two separate houses on the same lot". That is not the proper procedure. The Applicants are seeking a special use permit to render an accessory structure an accessory apartment. In other words, the special use permit will permit "two separate" dwelling units on the same lot; a use variance is not required.

The Memorandum of Town Attorney Thomas F. Wood, Esq., dated March 28, 2018, affirmed that the Applicants were entitled to seek a special permit for an accessory apartment because the accessory structure which would house the accessory apartment existed prior to 1979 as required under the Code. Code, § 307-45(B)(4). Applications for an accessory apartment special permit is within the purview of the Planning Board. In addition, contrary to the doubt raised in the Engineer's Memo, the accessory structure was clearly built before 1979.

The Engineer's Memo takes issue with that determination on the ground that the current accessory structure could not be converted from a primary residence to an accessory structure because the accessory structure is in the front yard. As noted above, there is no "front yard" on the Applicant's property, and therefore we respectfully submit that the application may not be denied on that ground.

The Engineer's Memo notes that the building permit imposed certain limitations on the accessory structure and main home. First, attached is the Certificate of Occupancy issued October 23, 2000, which authorized the property as being comprised of a one-family residence and a one-family accessory building. Second, no reasoning or authority is submitted for the proposition that the Applicants are precluded from now seeking a special use permit due to conditions which may have been imposed in the past. And, as noted in my letter dated February 20, 2019, the Town taxed the Applicants' property as a two-dwelling property after the new residence was built.

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Accordingly, we respectfully disagree with the Engineer's Memo and submit that the Planning Board is empowered to consider and grant the Applicants' application for a special use permit.

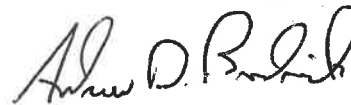
An email dated March 6, 2019 in opposition to the application was submitted by Mr. Wai Chin. We take issue with Mr. Chin's claim that the Applicants are seeking to alter rules or that the granting of the Applicants' application would start an "avalanche". There is no basis for Mr. Chin's claim that another unnamed neighbor on the private road he shares with the Applicants was prevented from "renting out his property" due to the Applicants' objections. The Applicants have never objected to any other property owners seeking a special use permit to create an accessory apartment, either on the private road or elsewhere.

The bottom line is that accessory apartments are to be *encouraged*, not *discouraged* by neighbors hyperbolically claiming that an "avalanche" of applications will result. The very purpose of the accessory apartment special permit process is "to *allow* accessory apartments by special permit [and] to *allow* the more efficient use of the Town's stock of dwellings and accessory buildings . . . Code, Section 307-45(A)(1) (emphasis added). Similarly, encouraging such uses is consistent with the Town's 2016 Sustainable Comprehensive Plan, which encourages "flexible zoning policies . . . that *allow* accessory apartment [and] *streamline the process* for approving accessory apartments." Town's 2016 Sustainable Comprehensive Plan, p. 51 (emphasis added).

In light of the foregoing, and the submissions made to the Planning Board, we respectfully request that the Planning Board issue a special permit authorizing the Applicants' accessory structure to be used as an accessory apartment.

We appreciate the Board's consideration.

Respectfully submitted,



Andrew D. Brodnick

Encl.

cc: Chris Kehoe, AIPC (by email – w/enc.)  
Michael Cunningham, Esq. (by email – w/enc.)

Date of Issue 10-23-00

No. 15330

# Town of Cortlandt

Westchester County, N.Y.

## CERTIFICATE OF OCCUPANCY and Zoning Compliance

Tax Map Designation: Section 56.18 Block 1 Lot 1

Owner of premises SUSAN TODD & ANDREW YOUNG

Address 48 POND MEADOW RD  
CRATON ON HUDON N.Y.

Location 48 POND MEADOW RD

Proposed Use and Occupancy 1 FAMPRES

Building Permit No. 23005 Date Issued 7-13-99

W.C.D.H. File No. C99-27 No. of Bedrooms 5

This certifies that the New Building  Addition  Alteration  Existing Bldg.

1 FAMPRES & CONVERTING EXIST  
1 FAMP TO ACCESSORY BLDG

*(Description of Work)*

conforms substantially to the New York State Building Construction Code, the Code of the Town of Cortlandt, and any other laws, rules, or regulations of the State of New York and the County of Westchester, and permission is hereby granted for its occupancy.

Matthew Cook  
SIGNATURE

ASST BLDG INSP.  
TITLE

White - Owner

Yellow - Code Enforcement

Pink - Town Clerk