

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
SEPTEMBER 20TH, 2018**

The regular monthly meeting was held at the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York on Thursday, September 20th, 2018. The meeting began at 6:30 p.m.

The following members of the board were present:

Gregg Bucci
Robert Fahey
Gordon Fine
John Meisterich
Howard Orneck

The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held October 25th, 2018, site visits are scheduled for October 20th, 2018. Mailings are to be sent from October 1st to October 10th, 2018.

NEW BUSINESS

GONZALES #42/18 This is an application to allow an existing addition/deck with a rear yard setback of 34.9 feet where 40 feet is required in an R1-20 zone as per section 300-21 and Appendix A of The Town Zoning Code.
Property Address:
2736 Windmill Dr.
Section 27.10, Block 3, Lot 41

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

COHN #43/18 This is an application to allow an existing addition with a side yard setback of 26.17 feet where 30 feet is required in an R1-80 zone as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
376 Illington Rd.
Section 69.08, Block 1, Lot 16

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

MITCHELL #44/18 This is an application to allow an addition with a combined side yard setback of 25.56 feet where 40 feet is required in an R1-80 zone as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
2578 Farsund Dr.
Section 27.15, Block 2, Lot 29

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

KEANE #45/18 This is an application to allow an existing pool and deck with a side yard setback of 8.75 feet where 10 feet is required in an R1-20 zone as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
2877 Mead St.
Section 27.09, Block 1, Lot 60

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

McCABE #46/18

Property Address: This is an application to allow a fence with a rail height of 65 inches and a post height of 69 inches where 4.5 feet and the post may be 1 foot higher in a side yard as per section 300-13 of the Town Zoning Code. This property is located in a R1-80 zone.
645 Birdsall Dr.
Section 59.14, Block 1, Lot 16

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

LEMBKE #47/18

Property Address: This is an application to allow an addition with a rear yard setback of 22.7 where 30 feet is required in an R1-10 zone as per section 30-21 and Appendix A of the Town Zoning Code.
2093 Allan Ave.
Section 37.08, Block 1, Lot 67

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

NELSON #48/18

Property Address: This is an application to allow an addition with a combined side yard setback of 14.16 feet where 15 feet is required in an R1-20 zone as per section 300-21 and Appendix A of the Town Zoning code.
2972 Ferncrest Dr.
Section 26.08, Block 2, Lot 51

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

SKELTON #49/18

Property Address: This is an application to allow an accessory structure (hot tub) with a side yard setback of 2 feet where 10 feet is required in an R1-20 zone as per section 300-21 and Appendix A of the Town Zoning Code.
51 Wellington Ct.
Section 48.12, Block 1, Lot 27

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item was scheduled for a Site Visit on October 20th, 2018, a Public Hearing on October 25th, 2018, and referred to the Building Inspector.

CONTINUED PUBLIC HEARINGS

BOGA #34/18

Property Address: This is an application for the renewal of an accessory apartment.
3767 Briar Hill St.
Section 15.08, Block 2, Lot 3

This application was adjourned from the last meeting so the Applicant can appear at the meeting. Maria Boga, property owner appeared before the Board.

Chairman Fine informed the applicant that the reason she was asked to come in was due to complaints about the usage. The nature of the complaints that we heard were there are numerous cars always parked on the property and on the street, there's often garbage on the property. There's an unregistered vehicle on the property covered with a tarp, and it appears there maybe more than 1 other family living in the accessory apartment.

Chairman Fine asked if she lives in the building.
Ms. Boga said yes, with her husband and 2 kids.
Chairman Fine asked who's in the accessory apartment.
Ms. Boga said the tenant, 1 family with kids.
Chairman Fine asked if there is an adult child.
Ms. Boga said no.
Chairman Fine asked how many cars she has.
Ms. Boga said 1 for each member of the family, 6 cars.
Chairman Fine asked how many cars the tenant has.
Ms. Boga said 3. The tenant has 2, and now one of the daughters have her own car, she travels to college.
Chairman Fine said a site visit was done and there were 6 cars and a van on the driveway, 1 car on the street, another which appears to be an unregistered vehicle covered with a tarp and 7th car off on the side. Who does all those cars belong to.
Ms. Boga said on the unregistered, her daughter had a car accident, that's the car under the tarp.
Chairman Fine asked what about the other cars.
Ms. Boga said the other cars are theirs, tenants and sometimes her son has friends over.
Chairman Fine asked what do they do with the vehicles in the winter time when there's no room in the driveway for all the cars.
Ms. Boga said in the winter they keep them in the driveway.
Chairman Fine said you can't park on the street between November-April.
Ms. Boga said she understand that, they've never received any tickets.
Chairman Fine said some of the complaints were there were cars parked on the street in the winter when there were snow banks.
Ms. Boga said those are false allegations. Nobody has ever called and the police were never called.
Chairman Fine asked if she have any response to the complaints.
Ms. Boga said she don't think it's fair that they're doing this.
Chairman Fine said it's not that they're doing this. When there's an accessory apartment application, you have to follow stringent guidelines to get the permit. One of those things is parking and you're supposed to be self-contained on the property, and that does not necessarily mean you can put them anywhere on the property that you want. You cannot keep loading up the place with cars and have them bleeding out on the street, that also includes having room for visitors and visitors of the tenant. You have to be self-contained because you have to respect the rest of the neighborhood.
Ms. Boga said she believes they do, they've been there for 25 years, never complained to anybody or had anybody complained against them.
Chairman Fine asked how long they've had the accessory apartment.
Ms. Boga said since they bought the house. They renewed it every 3 years, never had any complaints. Followed the laws and regulations. Now the kids are grown up and have their own cars.
Chairman Fine asked if she have some kind of solution to cut down on the number of cars that are parked there.
Ms. Boga said yes, the vehicle that her daughter had the accident with will be leaving the property. One of the tenant's, their oldest child who have a car now, going to have them leave the property so they'll have 2 cars, one for the husband, one for the wife.
Mr. Meisterich said at the site visit, there was garbage displayed. The general aesthetic of that wasn't very nice either. Beyond just the cars, there's garbage cans. It's not really ideal and wonder if this has to do with how many cars, you have no space for the garbage.
Ms. Boga said they have space for the garbage, going to buy brand new garbage cans and keep them covered so the animals don't get to them.
Chairman Fine asked if there's a livery car also parked at the property.
Ms. Boga said yes, it's the tenant's, it's his business.
Chairman Fine asked if he works out of the house or does he go to some place else with the limo to

pick people up. Where does he get his calls to pick people up?

Ms. Boga said she does not know.

Chairman Fine asked is the car at the house till he has a run and takes the cars and goes.

Ms. Boga said yes.

Chairman Fine said so he's operating his business from the accessory.

Ms. Boga said as far as she knows, she thinks that's his business.

Mr. Meisterich said there's a white van, is it a commercial van.

Ms. Boga said yes, it's her husband's. He uses it for business.

Mr. Meisterich read the building code in relation to commercial vehicle, parking and the accessory apartment.

Chairman Fine asked if anyone have any comments.

Chris Ortega came up. He said the car that car on the last visit that have a tarp over it, that wasn't there in advance, there was another unregistered, unpermitted vehicle on their property. Somehow that got license plate on it.

Every morning they're jockeying the cars around. It's too many cars for a rural neighborhood. Don't want to get into previous problems, but they said they never had any complaints before. They have had complaints before but with another department.

Theodore Foster came up and said Mr. Ortega have stated it very well.

Ms. Boga said the other car that he said was unregistered, that was for sale. Tried to sell it, no one bought it and when her daughter got into the accident she took that car, registered it and is driving that one.

Mr. Bucci asked if there's a plan for the one that got into the accident.

Ms. Boga said it's supposed to be towed away to a shop, it will be removed from the property.

Chairman Fine asked if they increased the size of the parking area since they bought the house.

Ms. Boga said she's not sure.

Chairman Fine said it looks from the photo like 2 separate driveways. Was the driveway widen since they've been there?

Ms. Boga said it was not widened, they used the other side to park the cars.

Mr. Ortega said it was widened when they moved in, when they started renting out the apartment they widen as they got more cars. Originally this was a mother/daughter situation with the mother living downstairs, now it's become to be this big thing. Also, with the 2 cars that shouldn't be there, they're business cars. Even if take those 2 away, 8 cars are too many cars on that piece of property.

Ms. Boga said she was not aware that you cannot have that many cars.

Chairman Fine said it's not that you're not allowed. When you apply for the permit for the accessory apartment we have to look at what your parking plan is to see if what you're doing is blending in with the neighborhood. You can't keep constantly expanding, because then you're changing the character of the neighborhood. You're making the neighborhood look more commercial than what it was when you first got there.

Ms. Boga said in the past her kids did not drive, they did not have cars. When they grew up everyone needed their own car.

Chairman Fine said we're looking at it in the sense it can't be an excuse for overloading the parking area with cars because your family is growing which it naturally does. They get older and getting cars, but that's adding to the cars that's already there by the tenants and what ever cars they're adding because their kids are getting older. So now it's encroaching on the rest of the neighborhood, maybe not on their properties but aesthetically and safety wise it is.

The Board discussed some sort of screening.

Mr. Meisterich asked with the commercial vehicle and livery car, do you see any way to remove kind of permanently couple of those cars.

Ms. Boga said 2 cars will be removed from the property.

Mr. Meisterich said what about the tenant's livery car, do you think he have an alternative to parking in the driveway every night, like leaving it somewhere else. Is there any other options that you have?

Ms. Boga said they have 2 cars that they used, both work so they need the cars.
Mr. Orneck said plus he uses the limo.
Ms. Boga said no, that's one of them, that's his car.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item is adjourned, so they Board can get the original application when it was originally applied for when the Applicant bought the property. Want to look at what the parking plan was at that point, want to see what's changed over time and to do another site visit.

WASHINGTON PRIME GROUP #39/18
Property Address: 650 Lee Blvd. Section 16.12, Block 1, Lot 24
This is an application to allow an existing lot of 38.76 acres to be subdivided into 2 lots, 30.05 acres and 8.42 acres with .29 acres within a town ROW, where a minimum lot size is 35 acres. They also seek a variance to permit a main building with a setback of 5' from a street where a minimum of 50' is required. Variances required are per sections 300-88(A) and 300-87 of the Town Zoning Code. This property is located in a CRC zone.

Applicant requested an adjournment. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item is adjourned.

DINEEN, KATHLEEN #48/16
Property Address: 2090 Crompond Rd. Section 37.14, Block 2, Lot 8
This is an application to modify an existing special use permit for a day care facility per 300-53 of the Town of Yorktown Zoning Code. This property is located in an R1-10 zoning district.

Applicant before the Planning Board.
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item is adjourned.

DINEEN, KATHLEEN #49/16
Property Address: 2090 Crompond Rd. Section 37.14, Block 2, Lot 8
This is an application for a variance to allow an addition to a daycare facility to have a building coverage of 10057.5 sq. ft. where 7404 sq. ft. is the maximum allowed per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-10 zoning district.

Applicant before the Planning Board.
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, this item is adjourned.

NEW PUBLIC HEARING

BRI-ANT #41/18
Property Address: 1169 East Main St/ Section 16.10, Block 1, Lot 37
This is an application to allow a garage with a side yard setback of .83' where either 0' or 10' is required, a rear yard setback of .83' where a minimum of 30' is required and a side yard setback (abutting a residential district) of .83' where a minimum of 50' is required as per appendix B and the Town Zoning Code. This property is located in a C-2 zone.

Mailings and sign certification in order.
Thomas McDermot appeared before the Board with the Applicant, Brian Goc.
Mr. McDermot said they were at the March 22 meeting for several variances that they needed to renovate the existing house on the property.

Chairman Fine asked why they didn't do this the same time.

Mr. Goc said he did not come for the 2nd floor approval because he did not think of it until he got started and was already this far and did not want to add and delay to get the project started, and thought it made sense to bring it back to what it was before. It was a 2-story building. Looking to get approval to get 2nd floor storage space.

Mr. Bucci asked if there'll be living space.

Mr. McDermot said no, it's purely storage. What Brian wanted to do is to add to the upper portion.

Have pictures to show there used to be a 2nd story. Pictures was submitted the file.

He said when he spoke to Joe Venitucci he said that if they're just rebuilding what was there then no problem, however because they're adding above that, they're increasing the non-conformity.

After speaking with Joe they weren't allowed to build up to the property line. So in reconstructing they're going to pull the walls in from the property line approximately 10 inches, that will allow them to have 10 inch overhang on each side around the perimeter of the garage.

One of the tricky things about this project is because it's on the property line, the building code requires fire separation from the inside as well as the outside. So developed a wall assembly that will achieve that, so that's not an issue.

Mr. Bucci asked if it's going to look like the original garage.

Mr. McDermot showed the Board the site plans.

Chairman Fine asked how many cars.

Mr. McDermot said 2 car garage.

Chairman Fine asked if they're changing the size.

Mr. McDermot said they're actually reducing it ever so slightly.

Memo from the Assistant Building Inspector dated, September 12, 2018 states: I have no objections in granting relief. The Applicant will need a building permit and c.o. for this work.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Meisterich, and Orneck, the application for a variance was granted to allow a garage with a side yard setback of .83' where either 0' or 10' is required, a rear yard setback of .83' where a minimum of 30' is required and a side yard setback (abutting a residential district) of .83' where a minimum of 50' is required as per appendix B and the Town Zoning Code. With the stipulation that it pertains only to the requested variance and not the remainder of the property line and that the garage be building in substantial conformity to the plans submitted.

Recording Secretary, Glenda Daly

Meeting adjourned at 7:15pm

Happy Zoning!