

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
OCTOBER 25TH, 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, October 25th, 2018. The meeting began at 6:30 p.m.

The following members of the board were present:

Gregg Bucci
William Gregory
Robert Fahey
Gordon Fine
John Meisterich

Also present is Special Counsel, Kristen Wilson. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held December 13th, 2018, site visits are scheduled for December 1st, 2018. Mailings are to be sent from November 19th to November 28th, 2018.

NEW BUSINESS

BEHAN #49/18 This is an application for the renewal of an accessory apartment.
Property Address:
1798 French Hill Rd.
Section 37.18, Block 1, Lot 7

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item will be handled administratively and referred to the Building Inspector.

MUSHKOLAJ #50/18 This is an application for a special use permit for an accessory apartment. The property is located in an R1-20 zoning district.
Property Address:
3551 Buckhorn St.
Section 16.10, Block 4, Lot 13

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on December 1st, 2018, a Public Hearing on December 13th, 2018, and referred to the Building Inspector.

DRUSHEN #51/18 This is an application for the renewal of an accessory apartment.
Property Address:
379 Hallocks Mill Rd.
Section 37.10, Block 1, Lot 38

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item will be handled administratively and referred to the Building Inspector.

BROSS #52/18 This application is for a variance for a proposed addition with a front yard setback of 26' where 40' is required and a combined side yard setback of 3.5' where 40' is required as per Section 300-21 and Appendix A of the Town of Yorktown Zoning Code.
Property Address:
3458 Spruce St.
Section 16.13, Block 2, Lot 22

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on December 1st, 2018, a Public Hearing on December 13th, 2018, and referred to the Building Inspector.

KWIATKOWSKI #53/18 This is an application for a variance for a purposed addition with a combined side yard setback of 66.5' where 80' is required and a rear yard setback of 68' where 75' is required as per Section 300-21 and Appendix A of the Town of Yorktown Zoning Code.
Property Address:
1164 Hunterbrook Rd.
Section 58.5, Block 1, Lot 14

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on December 1st, 2018, a Public Hearing on December 13th, 2018, and referred to the Building Inspector.

CONTINUED PUBLIC HEARINGS

BOGA #34/18 This is an application for the renewal of an accessory apartment.
Property Address:
3767 Briar Hill St.
Section 15.08, Block 2, Lot 3

Chairman Fine said this application was adjourned from last month, this is normally handled administratively when it's a renewal, but there were several complaints from neighborhood residents. There was a site visit by the Board and the unregistered vehicle was removed, the garbage cleaned up and 3 cars in the driveway.

Chairman Fine asked if there were any comments from anyone. Chris Ortega came up. He said they have done some things, did remove the unregistered car. There has been a decrease in the number of cars and that's fine, however, is this only being done to get the permit and once the permit is done then it's going to start all over again. He was concerned that he would have to wait 3 years to come back, is there a possibility the permit not be granted for 3 years, for a smaller amount of time so they can revisit this again in a shorter amount of time.

Chairman Fine said these are generally 3-year permit, but the board can consider a shorter one, just to keep a handle on it. If there's an issue that crops up during the course of the permit whether it's 1yr. or 3yrs. you can file a complaint with the code enforcement. Theoretically if there's an issue they can bring it back before the Board earlier as part of the permit.

Mr. Meisterich asked the Applicants if they found alternate parking for some of the vehicles that were there.

Mr. Boga said they're working on that. He owns a construction company, and owns the construction vehicle that's parked in the driveway. He has another car, his wife has a car, and 2 kids, as the family grows they have more cars. They also have a tenant. The tenant has 2 cars and their daughter got her permit for 3rd car. Will have 7-8 cars in total.

Chairman Fine said there's a copy of the original application in the file, it says total number of vehicles is 4. When you do accessories, the parking for the accessory and the house itself is supposed to be self-contained on the property, it is not supposed to spill over onto the street. There's the law in Town between November and April you can't park on the street at night. The board understands that families grow and the tenant's family grows and the number of cars increase, but it says number of vehicle in use for the entire residence is 4, number of off street

parking is 7 but you really don't have that in the winter time.

Mr. Gregory asked Mr. Boga how long he has had the commercial vehicle.

Mr. Boga said 1 year.

Mr. Gregory said the commercial vehicle law requires a special permit to park it in a residential zone, however the use special permit for accessory apartment specifically limits or excludes getting a special permit for a commercial vehicle. The problem is if you have a commercial vehicle on the property, it shouldn't be there if you're going to keep the permit for the accessory apartment.

Mr. Boga said he'll remove it, will take care of it.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for renewal of a special use permit for an accessory apartment was granted for a period of one (1) year.

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.

The applicant was not present. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, 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 is still before the Planning Board.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, 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 is still before the Planning Board.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item is adjourned.

NEW PUBLIC HEARING

GONZALES

#42/18

Property Address:

2736 Windmill Dr.

Section 27.10, Block 3, Lot 41

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.

Mailings and sign certification in order.

Annamarie Gillian, Executor of parents' estate. She stated that about 35 years ago her father added

on a dining room and it's beyond he setback requirements.

Memo from the Assistant Building Inspector dated, October 10, 2018 states: The applicant is requesting an area variance to legalize and existing addition and deck.

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, Gregory, and Meisterich, the application for a variance was granted 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, with the stipulation that the variance pertains only to the requested variance and not the remainder of the property line.

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

Mailings in order.

Architect Alona Cotava representing the Applicant.

Applying for legalization of addition to existing house.

Memo from the Assistant Building Inspector dated, October 16, 2018 states: The Applicant is requesting an area variance to legalize an existing addition.

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, Gregory, and Meisterich, the application for a variance was granted 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, with the stipulation the variance pertains only to the requested variance and not the remainder of the property line, and is subject to the Applicant filing the sign affidavit with photo of the sign.

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

Mailings and sign certification in order.

Architect John Scavelli representing the Applicant.

Mr. Scavelli said there's an existing screened in porch at the rear side of the property, they are proposing to demolish the existing screened in porch and want to build a 4-season formal family room. The proposed addition has a smaller footprint than the existing screened in porch. The non-conformance is coming from the existing footprint of the existing house. The proposed addition is proposed to be a step back even further away from the property line, and still be more than 15ft. away from the side yard. There's a new footprint change so that's where the variance application is stemming from.

Memo from the Assistant Building Inspector dated, October 10, 2018 states: The Applicant is requesting an area variance to construct an addition.

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, Gregory, and Meisterich, the application for a variance was granted 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, with the stipulation that the variance pertains only to the requested variance and not the remainder of the property line and that the addition be built in substantial conformity to the plans submitted.

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

Mailings and sign certification in order.

Architect David Tetro representing the Applicant.

Mr. Tetro said the application is for legalization of an existing pool and deck. The Applicants started construction on the deck and they were told they needed a permit. Currently the deck is built closer to the property line than the pool. For structural reasons and for zoning reasons he recommended it come back and stays in line with the curve of the pool closer to the property line.

Memo from the Assistant Building Inspector dated, October 16, 2018 states: The Applicant is requesting an area variance to legalize an existing accessory structure (pool and attached deck).

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, Gregory, and Meisterich, the application for a variance was granted 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, with the stipulation that the variance pertains only to the requested variance and not the remainder of the property line.

McCABE #46/18 This is an application to allow a fence with a rail height of 65" and a post height of 69" 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.
Property Address:
645 Birdsall Dr.
Section 59.14, Block 1, Lot 16

Mailings and sign certification in order.

Jennifer McCabe appeared before the Board, she said the fence was newly installed.

Memo from the Assistant Building Inspector dated, October 10, 2018 states: The Applicant is requesting an area variance to construct fence.

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, Gregory, and Meisterich, the application for a variance was granted to allow a fence with a rail height of 65" and a post height of 69" 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, with the stipulation that the variance pertains only to the requested variance and not the remainder of the property line.

LEMBKE #47/18 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.
Property Address:
2093 Allan Ave.
Section 37.08, Block 1, Lot 67

Mailings and sign certification in order.

Architect Bruce Swerveski representing the Applicant.

Seeking a variance for the subject property in a R1-10 zone, 100x100 foot lot, totaling 10,000 square feet with a 1 story wood frame, one family residence. The proposed addition has a rear yard setback

of 22.7 feet where 30 feet is required. Behind the house there's a 16x20 foot wood deck on grade beams. Proposing to remove the deck and build a 1 story addition, same footprint of the deck.

Memo from the Assistant Building Inspector dated, October 10, 2018 states: The Applicant is requesting an area variance to construct an addition.

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, Gregory, and Meisterich, the application for a variance was granted 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, with the stipulation that the variance pertains only to the requested variance and not the remainder of the property line and that the addition be built in substantial conformity to the plans submitted.

NELSON #48/18 This is an application to allow an addition with a 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.
Property Address:
2972 Ferncrest Dr.
Section 26.08, Block 2, Lot 51

Mailings and sign certification in order.

Architect David Tetro representing the Applicant.

The addition is along the side of the house. The existing house have a side yard of 14.23 ft., the addition is tucked behind the house.

Memo from the Assistant Building Inspector dated, October 10, 2018 states: The Applicant is requesting an area variance to construct an addition.

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, Gregory, and Meisterich, the application for a variance was granted to allow an addition with a 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, with the stipulation that the variance pertains only to the requested variance and not the remainder of the property line and that the addition be built in substantial conformity to the plans submitted.

Recording Secretary, Glenda Daly
Meeting adjourned at 7:34pm
Happy Zoning!