

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
SEPTEMBER 26TH, 2019**

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 26th, 2019. The meeting began at 6:30 p.m.

The following members of the board were present:

Gregg Bucci
Robert Fahey
Gordon Fine
William Gregory
John Meisterich

Also present is Special Counsel, John Buckley and Building Inspector John Landi. The meeting was aired on Channel 20 Optimum and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held October 24th, 2019, site visits are scheduled for October 19th, 2019. Mailings are to be sent from October 1st to October 9th, 2019.

NEW BUSINESS

BISSACCIA #34/19 This is an application for a special use permit for an accessory apartment. The old one has expired.
Property Address:
2501 Dunning Dr.
Section 27.18, Block 1, Lot 19

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, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

BOGA #35/19 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
3747 Briar Hill St.
Section 15.08, Block 2, Lot 3

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, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

BUCELLO #36/19 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
608 Granite Springs Rd.
Section 27.13, Block 2, Lot 11

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, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

BISAGNA #37/19 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
586 Madison Ct.

Section 37.9, Block 1, Lot 2

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, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

GONZALES #38/19 This is an application for a special use permit for an accessory apartment. The old one has expired.
Property Address:
84 Loder Rd.

Section 27.15, Block 1, Lot 3

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, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

IVEZIC #39/19 This is an application to allow a garage with a side yard setback of 10.92' where a minimum of 15' is required and a combined side yard setback of 39.32' where a minimum of 40' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.
Property Address:
25 Granite Springs Rd.
Section 27.11, Block 2, 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 October 19th, 2019, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

YORKTOWN JAZ #2 LLC #40/19 This is an application for a proposed building pad, with a front yard setback of 50' where a minimum of 75' is required as per Appendix B of the Town Zoning Code. This property is located in a C3 zone.
Property Address:
Crompond Rd.
Section 26.19, Block 1, Lot 18

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 October 19th, 2019, a Public Hearing on October 24th, 2019, and referred to the Building Inspector and the Planning Board.

NIEVES #41/19 This is an application for an attached garage with a side yard setback of 9.8', where a minimum of 15' is required as per 300-21 and Appendix A of the Town Zoning Code. The property is in a R1-20 zone.
Property Address:
420 Fairview Ave.
Section 17.13, Block 2, Lot 76

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 October 19th, 2019, a Public Hearing on October 24th, 2019, and referred to the Building Inspector.

CONTINUED PUBLIC HEARINGS

DINEEN, KATHLEEN #49/16 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.
Property Address:
2090 Crompond Rd.
Section 37.14, Block 2, Lot 8

Joseph Riina of Site Design representing the Applicant. They completed the process with planning. The building size has gone down substantially since the application was first submitted.

Mr. Gregory said the Board will need an amended application.

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

NEW PUBLIC HEARING

3717 CROMPOND ROAD LLC #10/19
Property Address: 3717 Crompond Rd.
c/o Law Office of Grace & Grace
Section 35.08, Block 1, Lot 13

Application for a Special Use permit to allow the use of an approved parking lot (site plan) to be used for parking of vehicles and/or in the alternative for a variance to allow for the accessory use of the subject property for purposes of parking without an active main use.

Michael Grace who's representing the applicant appeared before the Board. Mailings did not go out. Not open.

SPIRELLI 3545 LLC #16/19
Property Address: 3545 Buckhorn St.
Two-lot subdivision
Section 16.10, Block 4, Lot 10

Application for a definitive interpretation by the Zoning Board as whether the condition by the Planning Board, within the previous decision, which states that no further subdivision is allowed is binding and should have any bearing on the application before them.

William Gregory recused.

Joseph Riina of Site Design representing the applicant.

Chairman Fine recapped what the application was for.

Mr. Riina said the total acreage of the site is 1.6 acres and in every way it conforms to the dimensional requirements and are requirements for 2 lots. Mr. Spirelli is requesting the Board take another look at that original decision of the Zoning Board and determine whether or not that decision may be amended to remove the restriction on further development. As stated in the letter that was provided, Mr. Spirelli proposes the following; that the construction of the new single family home on the lot would enhance Buckhorn Street and increase property value for the surrounding homes, it is subject to all current zoning, construction and environmental standards therefore it would have no negative impact on the surrounding area. New residential home would provide tax revenue to the town and an additional family would provide total revenue within the town itself.

Chairman Fine asked if the property is on sewer.

Mr. Riina said one of the significant differences between 1985 and current state is that public sewers were not available at that time that the decision was rendered, the house was on septic system, but now there's a direct connection right in front of the property for public sewers. That would alleviate any impact of environmental concerns and may have been part of the decision why that limitation was put on to not subdivide the property.

Chairman Fine said obviously at the time the applicant purchased this property the decision of the Zoning Board was obviously of record.

Mr. Riina said it was, he was not aware of it.

Memo from the Planning Board dated September 26, 2019 states:

The Planning Board had received an application for subdivision of the subject property in October of 2018, but could not continue review given the 1985 Zoning Board decision #102/85 the restricted future subdivision of the property.

The Planning Board notes the following:

1. When the 1985 Zoning Board decision was made, sewers were not available. Sewers are currently available.
2. The zoning of the property is R1-20 and has not changed since the 1985 decision.
3. There has been improvements made on other properties in the Buckhorn Street neighborhood and the Planning Board feels similar development may be beneficial to the

area and further, the existing multi-family structure could use improvement. The Planning Board will consider the density of development and whether a subdivision would create any adverse impacts to the neighborhood if the Zoning Board of Appeals determines to remove the condition that no subdivision is permitted.

Letter from Howard Orneck dated, September 24, 2019 with his objection was read by Chairman Fine and submitted to file.

Alan Chadwick who lives in the neighborhood read a statement voicing his objections to the subdivision.

Chairman Fine said the Board has to grapple with the decision that was made back in 1985 to put this language in about no further subdivision.

Chairman Fine asked Mr. Riina what reason other than the fact that the applicant wants to build another home is there for us to say we're going to ignore the reasoning of that Zoning Board and subject it to our own reasoning in removing that clause.

Mr. Riina said the strongest point is to take into consideration the availability of public sewer now. Chairman Fine said what about density as an issue.

Mr. Riina responded, the makeup of the existing dwelling with 3 apartments amounts to 4 bedrooms all together so from a density prospective that's atypical of a home on that street.

Chairman Fine said except you are adding more vehicles.

Mr. Riina said true, but he does not see that as a heavy impact. Not all vehicles are going to be leaving at the same time, will be a staggered entry and exit. It's a residential street, you going to get the traffic in and out different times of the day.

Chairman Fine asked it is your position that the only thing that's change since the 1985 decision is there's sewer hookup.

Mr. Riina said he thinks that's the most significant change. The lot itself is in the sewer district and paying sewer taxes.

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

MENDOZA #17/19 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
1824 Hanover St.
Section 37.19, Block 3, Lot 32

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated, June 21, 2019 cited no objections.

Charles and Linda Wenderoth, neighbor, appeared before the Board to voice their objections. They are concerned about the condition of the property, saying it's a mess. They submitted photos to the file.

Chairman Fine asked Mr. Buckley to send a letter to the applicant to be at the next Board meeting. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item is adjourned for the purpose of the Board doing a site visit on October 19, 2019 and the applicant to come to the meeting of October 24, and asked the legal department to send a letter to the applicant stating that they have to be here on October 24 and grant the Board access on October 19th.

ANTINI #20/19 This is a special permit use application for the renewal of an accessory apartment.
Property Address:
2222 Crompond Rd.
Section 37.09, Block 1, Lot 68

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated, July 25, 2019 cited no objections.

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 was granted for a period of three (3) years.

AMERICAN CUSTOM BUILDERS

#24/19

Property Address:

2599 Gregory St.

Section 27.14, Block 1, Lot 32

Mailings and sign certification in order.

John Farrell, President of the Corporation appeared before the Board. The addition is a front porch overhang with stairs.

Memo from the Assistant Building Inspector dated, September 16, 2019 cited no objections.

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 for a proposed front porch with a front yard setback of 38.66' where a minimum of 40' is required as per Section 300-21 and Appendix A of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and the addition be built in substantial conformity to the plans submitted.

GENCARELLI

#25/19

Property Address:

1525 Ivy Rd.

Section 16.13, Block 1, Lot 48

Mailings and sign certification in order

The applicant appeared before the Board, was notified by the Building Department that he was in violation of the ordinance. He has a motorhome greater than 30' long and it was parked on his property in his driveway

Chairman Fine asked what's the size of the motor home.

Mr. Gencarelli said about 39-40', submitted a photo with the application.

Chairman Fine asked obviously it's not parked on the property right now.

Mr. Gencarelli said he took it off the property when he received the violation of the ordinance. He is not bringing it back until the Board makes it decision. It's currently being stored in Cortlandt. Have had it for a number of year and parked it there for number years. Normally parks it close to the street. Did not park it close to the house to have access his garage would be limited. Do keep it covered most of the times

Chairman Fine said one of the things to consider is does the vehicle need screening and if so what is the proper screening for it. Unclear if screening in this case is a cover for it which is fancy terms meaning a tarp. Screening generally speaking means it covered behind something so it can't be seen from the road.

Mr. Gencarelli said it's covers by shrubbery/trees coming from north, coning south there's 20-30ft without shrubbery or trees.

Ralph Scanapico, neighbor across the street. He has no problem with Mr. Gencarelli's motorhome being parked in the driveway. It has been there for 22yrs. .

Nick Congello, does not have an RV but does not have a problem with it.

Anthony Cerato, neighbor, does not have a problem with it.

Memo from the Assistant Building Inspector dated, September 13, 2019 cited no objections.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a special use permit as required per Section 300-62(B)

of the Town Zoning code to park an RV on the property was granted for a period of three (3) years, with the stipulation that the RV be parked as close as possible to the garage.

ZISSEL #26/19 This is an application to allow a 6' fence in a side yard where a maximum of 4.5' is required as per 300-13F of the Town Zoning Code. This property is located in a R1-20 zone.
Property Address:
350 London Rd.
Section 17.17, Block 3, Lot 32

Mailings and sign certification in order.

Mr. Zissel appeared before the Board, looking to put up a 6ft. fence in the back yard.

Memo from the Assistant Building Inspector dated, September 9, 2019 cited no objections.

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 6' fence in a side yard where a minimum of 4.5' is required as per Section 300-13F of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and the fence be maintained.

MINTZ #27/19 This is an application for an existing shed with a side yard setback of 10'1" where a minimum of 12' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-10 zone.
Property Address:
3501 Frost Rd.
Section 16.10, Block 1, Lot 2

Mailings and sign certification in order.

Mr. Mintz appeared before the Board, it's an existing shed. It's been there since the beginning of the summer.

Memo from the Assistant Building Inspector dated, September 9, 2019 cited no objections.

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 for an existing shed with a side yard setback of 10'1" where a minimum of 12' is required as per Section 300-21 and Appendix A of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line.

SPILLANE #28/19 This is an application to allow a landing and stairs with a side yard setback of 10'2" where a minimum of 20' is required and a combined side yard setback of 16.6' where a minimum of 50' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-40 zone.
Property Address:
152 Loder Rd.
Section 27.19, Block 1, Lot 28

Mailings and sign certification in order.

Mr. Spillane said he have a small landing off his mud room that is 3'x7' that did not conform to how close it was to the property line.

Memo from the Assistant Building Inspector dated, September 13, 2019 cited no objections.

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 landing and stairs with a side yard setback of 10'2" where a minimum of 20' is required and a combined side yard setback of 16.6' where a minimum of 50' is required as per Section 300-21 and Appendix A of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line and the stairs and landing be built in substantial conformity to the plans submitted.

SARLO #29/19 This applicant is requesting a special use permit for having a contractor's yard and parking commercial vehicles.
Property Address:
675 Saw Mill River Rd.
Section 59.14, Block 1, Lot
20, 21, 22
Not open. Requested adjournment.

YORKTOWN ENERGY STORAGE 1 LLC #30/19 This is an application for a special use permit for a Public Utility Substation as per 300-57 of the Town Zoning Code.
Property Address:
3901 Gomer Ct.
Section 6.17, Block 1, Lot 24

Mailings and sign certification in order.

Robert Gaudio, Attorney appeared on behalf of the Applicant.

Chairman Fine said the Town Board is currently working on legislation, not for this specific application but for this issue because right now there is no regulation in the town code regarding this type of facility. The section that was quoted when it was written did not anticipate this type of usage, it was written for public utilities way back when solar energy was not even thought of. With that said, will open the hearing and get the testimony and read the memos, but not voting on it, going to give the Town Board the opportunity to give their input and see what they're doing with the legislation. Mr. Gaudio said with all do respect, the application has been pending since July and it was filed pursuant to a determination that this particular code provision does apply to this particular use. Did make the application and proceed with the Planning Board on three separate occasions. Don't think legally it's the proper basis to delay this application because of potential legislation. Can tell you that base on the three meetings with the Planning Board and the additional documentation and the changes that was made, we actually do comply, not only with the existing code but with the proposed model ordinance from the state, and will be willing to accept conditions that are reasonable with respect to proposed legislation.

Under Section 300-57, we meet all the code requirements. This is not solar, it's an electrical sub station, take electricity off the grid, stores it and put it back on the grid during peak demands. It meets all the underlying setbacks of the zone and meet the special public utilities setbacks as required by the Town code. All the provisions are consistent with NYSERDA model ordinance that was put out and believes the Town Board is looking at it.

Submitted a full environmental assessment form. Filed application with the Town Engineer for wetland permit. Submitted all the details of the plan. Most importantly submitted a safety memo from the applicant that went through all the different details of the NYSERDA ordinance, all of the different safety perimeters, fire perimeters and fire suppression. All the required lighting, signage and fencing and most importantly in the discussion with the Planning Board and is suggested by the model permit from the state. Would be happy to meet with emergency services personnel prior to installation and commencement of the operation, meet with them and train them on the particulars of this particular installation.

While we appreciate the fact that the Town Board is working on the model ordinance, we do comply with all of the NYS fire prevention and building code regulations that were recently updated the this exact type of use. Comply with all the national fire codes, comply with all the equipment being UL rated and comply with all the requirements of the NYSERDA ordinance. So there's nothing more that could be added by the Town, the application is already filed under the current town code.

Mr. Fahey asked what using for the fire suppression.

Mike Conway spoke about what type of fire suppression system that would be used.

Memo from the Assistant Building Inspector dated, September 23, 2019 states:

I have inspected the property on August 28, 2019. This property is located in a flood plain and wetland area. It is located in an office zone O. If this facility does meet the definition of a Public Sub Station, that use is only listed under (B) main uses permitted by a special permit in accordance with Article VII. In this application, this “sub station” would be an accessory use, there is already a primary use on this property.

Mr. Gaudioso said as far as the flood plain, did have conversations with the Building Department, don't believe it's in a flood plain but will be willing to accept this as a condition to make a map amendment of the flood plain. As far as the use, it was already determine by the Building Department. Submitted a memo dated July 10, it was submitted as part of the application confirmation that this require a special permit from this Board.

Memo from the Planning Board states:

The Planning Board, at it's meeting of September 9, 2019 and September 23, 2019, discussed the subject project, referred from the Zoning Board of Appeals. The project is being considered under Section 300-57, Public Utility Unit Substation, of the Yorktown Zoning Code. This Planning Board provides the following comments.

1. The proposed battery storage facility is in a regulated Yorktown wetland buffer as well as a DEC regulated wetland buffer and will require a Yorktown wetland permit. Mitigation may be required. The application stated that they have submitted a wetland permit application to the Town Engineer. It is also located within a flood zone and will require a permit from the Building Department, however the applicant stated that they believe the flood insurance maps do not accurately reflect the probable flood boundaries and are working with FEMA to amend the mapping of this property. The Board suggests that the Conservation Board review the project.
2. The Board discussed potential system failures and emergency response requirements. The applicant stated that the facility is installed with a temperature control system and fire suppression system. They further stated they are willing to provide training to Yorktown emergency services. The Board suggests any approval be conditioned with such training. Further, the Board suggests that they Fire Inspector review this project, if they have not done so already.
3. The Planning Board recommends the Applicant provide a decommissioning bond.
4. The Planning Board notes that the Town Board has authorized the creation of a section of the code that would regulate battery storage systems specifically and the Town Attorney's office has drafted such a law based on the NYSERDA's guidance documents and model law pertaining to same. The Town Attorney's office provided a copy to this Board for information purposes, on September 24th. The Planning Board is aware of the initial determination that the proposed use comports with Section 300-57, Public Utility Unit Substation. The Board, however, finds the requirements of that section lacking, and express concern regarding the use of the statute, as currently written, to effectively regulate this new technology

The Planning Board generally supports this type of facility as an alternative energy measure and protected against electrical brownouts and blackouts. The Planning board has no other planning objections beside the items cited above.

Mr. Gaudioso said in response generally agree with that, the only thing he takes issue with is they had submitted an engineering report, it's not in DEC regulated wetland buffer, but did file a wetland application for the wetland permit. Have no objection to the condition of a removable bond to the satisfaction of the town.

Memo from the Engineering Department, dated August 8, 2019 states:

The Engineering Department is in receipt of the engineering plans for the subject site, prepared by PV Engineers, dated 7-17-19, 4 sheets.

The proposed work will require the following Engineering Department permits:

- MS4 Stormwater Management
- Wetland

Note: A Town Wetland Permit is required due to the close proximity of a watercourse on the property.

The application is lacking two important details: (1) should provide simulations to show a photo array of the existing condition and proposed; and (2) should provide a zoning compliance chart to demonstrate all Town zoning regulations have been met.

Following are our comments on the submitted materials:

1. Submit an Engineering Department application and the required fee to request the permits noted above. Must also include an Environmental Assessment Form so we can understand all of the environmental issues of concern that will be involved in this project.
2. It appears the entire site is within a 100-year flood plain as per FEMA mapping; Applicant should contact the Building Department to determine if a flood development permit application.
3. It appears there are NYSDEC wetlands on the property, the Applicant should contact NYSDEC for further guidance and determination whether a NYSDEC wetland permit will be required for the proposed action.

Note: NYSDEC wetland delineation must be shown on the survey drawing.

4. Please clarify how much re-grading will be done on the property, what are the cut/fill calculations required for this development site. For the equipment pad, is this a structural slab with footings and foundation walls? Will there be any work done on the access driveway or parking areas? Are any trees proposed to be removed?
5. Need further information on the stormwater collection/treatment system and where/how it discharges off the site.
6. Must confirm if there will be any work performed in the NYS right-of-way.

If a Special Use Permit will be granted for this application, we recommend the ZBA review the guidebook published by NYDEC/NYSERDA, which includes many site plan consideration and conditions that may be implemented by the approval authority. We particularly recommend the Board include a condition that the solar array must be decommissioned if the function is discontinued at some point in the future. The Board consider imposing an escrow amount to prove the Town with a guarantee that all above ground structures be removed and site restored within 60 days of the use being discontinued.

Mr. Gaudioso said demanded materials have been updated. There's no solar array but do have no objection to a condition of removal bond subject to the Town satisfaction. There's no work in the NYS right-of-way. Did submit a letter to the Board detailing all of our responses to the memo. No grading required, did include all of the erosion control methods on the new plans. Did show the site lines and renderings on the plans, did add the additional landscaping on the plans. Have address all those particular comments.

Letter from Susan Siegel, dated September 24, 2019 with her statement was read and submitted to file.

Mr. Gaudioso responded to Ms. Siegel statement.

The Board and Mr. Gaudioso discussed the various Boards that needs to review the project and training for emergency services.

Mr. Gregory said speaking from code prospective. Know NYSERDA has been looking at this, Building Code Council recently past some emergency legislation that created some additional requirement, because the purview contains things that needed to be done in terms of safety. One of the things the Building Code Council did was to memorialize the emergency creation of the legislation, they were working with NYSERDA to create model ordinance that kind of mirrored some

of the concerns that they had dealing with these type of facilities. Don't think the ordinance as it was written in 1958 applies at all to this particular facility. One of the things the Town Board is currently considering that NYSEERDA model code basically mirrored some of the concerns that code council had when they were creating additional regulations in the building code. Looked at that section of the ordinance and looked at the model code for all of 15 minutes.

Understand that you're saying you're meeting all these conditions and respect the fact you're saying it, have to be convinced by looking at this. The other thing is the Building Department memo indicates that you consider this as a main use by special permit, one of the things is on this particular site there is already a main use. Whether that becomes an issue or a problem, don't know yet, have to take a look at the ordinance. What they're saying in this memo is that it have to be considered an accessory, and the questions is does that then put in danger our evaluation.

Mr. Gaudioso said the problem with the reasoning on that is it's inconsistent with the Building Inspector original memo that it's a special permit. Think the Assistant Building Inspector is somewhat even in his language in that memo, he's speculating, he's maintaining his position, he's clearly not overruling the Building Inspector.

Mr. Gregory said from his prospective and as one member of this Board, would like to look at it more clearly.

Mr. Gaudioso said as far as this application, it's pending as a special permit. It was properly filed and time for appeal is over. With respect to the building code, generally Zoning Boards do not review application for ultimate compliance with building code requirements, that really is the Building Department purview to make sure an application complies. Will not only meet the building code, have to, which have already been amended specifically for this but will also have to meet the building code if it's amended between now and the time we need to get a building permit.

Mr. Fahey asked about fire suppression system and first responder training.

Mr. Conway discussed the procedures with the Board.

Chairman Fine asked if there was any comments from anyone in the audience.

Dr. Mike Silva came to the podium, he lives on Gomer Street. Don't understand the technology, it sounds like a storage cell for energy. Would like to know if this company has other storage sites in the area that have been in existence for a while that we can use as a model. Have those storage sites worked and have they had accidents. How will this affect him.

Mr. Conway said they currently have two sites currently under construction in this area. The first one is in Mount Hope, the second is in Montgomery. Those energy storage systems are coupled with solar. Have a number of site up and operational in Massachusetts and California.

Mr. Fahey asked why did they choose this site.

Mr. Conway said what's important to them is being in Con Edison service territory.

Mr. Meisterich told Mr. Conway to give a brief overview of that this technology is about.

Mr. Conway said in terms of our energy needs as a society, we store everything except for electricity. When we need electricity we generate it on the spot, import it from Niagara Falls and Indian Point. Over the past 20 years electrical energy storage has become a more feasible thing to put on this distribution system. There's an aspect of public safety, aspect of security, aspect of cyber security, all these things we've never really had the luxury of doing before we could store electricity, we sort of the ability to do now.

Mr. Meisterich said you're talking about lithium batteries in a building, that's what this is.

Mr. Conway said a building, concrete enclosure, and speaking to the point earlier about the nature of first responder training, it's not materially different from training they receive for batteries that are in cars, electric type cars.

Mr. Fahey said he assumes the battery is quiet larger than the average car battery.

Mr. Conway said yes, they're basically stacked.

Mr. Meisterich asked how many are we looking at.

Mr. Conway said several hundred.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item is adjourned. Need updated memo from the Engineering Department, referral from the Town Board whether they have anything to say or not. Refer to the Conversation Board and Fire Inspector and get referrals from all of them.

HANLEY #31/19 This is an application for an addition with a side yard setback of 21' where a minimum of 30' is required and a front yard setback of 34' where a minimum of 75' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-80 zone.
Property Address:
791 Pinesbridge Rd.
Section 70.14, Block 1, Lot 11

Mailings and sign certification in order.

David Graham, Architect, appeared on applicant behalf. Requesting a variance so they can do some additions to their house. It's an old house, in the front there's a porch and looking to enclose the existing porch roof to make the entry larger. In addition to that on the right side of the house looking to put a 1 story addition to get more room in the kitchen and living area, that would be 21' away from the property line where 30' is required.

Memo from the Assistant Building Inspector dated, September 9, 2019 cited no objections.

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 all with the stipulation it pertains only to the requested variance and not the remainder of the property line and the additions be built in substantial conformity to the plans submitted

RYAN #32/19 This is an application to allow a 5.5' fence in a side yard where a maximum of 4.5' is permitted as per 300-13F of the Town Zoning Code. This property is located in a R1-40 zone.
Property Address:
2293 Haymaker
Section 37.06, Block 1, Lot 50

Mailings and sign certification in order.

Beth Ryan appeared before the Board, looking to legalize the existing fence.

Memo from the Assistant Building Inspector dated, September 9, 2019 cited no objections.

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 5.5' fence in a side yard where a maximum of 4.5' is permitted as per Section 300-13F of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line and that the fence be properly maintained.

PANBAR #33/19 This is an application for a proposed single family dwelling on a lot with no frontage on a improved town road where a minimum of 100' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.
Property Address:
1285 Aspen Rd.
Section 5.17, Block 1, Lot 11

Mailings and sign certification in order.

Louis Panny appeared before the Board, need a driveway to access the lot.

Chairman Fine said it's an approved lot except there's no frontage on the town road. Need 100' on a town road which you don't have so that's the variance you're seeking.

Mr. Panny said right. He showed the Board the layout of the property.

Memo from the Assistant Building Inspector dated September 13, 2019 cited no objections.

Michael Caruso, represents Dina and PJ Goldsmith, who owns the adjacent property. The 100' deviation in this case would create in this neighborhood which is dominated by single family

dwellings of somewhat orderly character and appearance, would create an unusually and irregularly shape lot with a width to depth ration that's not consistent.

Chairman Fine asked if there isn't another house on the road, they have the same frontage issue. What makes that house different than this application?

Mr. Caruso said he wished he knew the answer to that. On the facts of this application, it's a substantial variance it's 100%. Don't think the presence of one house with that configuration on the same road justifies this application.

Stephan Nrekic, the town don't maintain the road. They should reach out to Mr. Goldsmith and him. Curious about the septic.

Mr. Panny showed him the layout of the property.

Chairman Fine said this was referred to the town board and requested the prior variance.

Mr. Gregory said the Town Board have met on this once at least, they've also had communication with the town engineer. One of the things that's involved in this because there's going to be a lot of soil that going to be moved, the Town Board is the one who approves those types of things. When we refer to the Town Board, we were hoping we would get some indication from them as to where they were in the process.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich

Adjourned and specifically request a referral from the town board so they can update us and get a copy of any prior variances

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

Mailings and sign certification in order.

No changes per the Building Department.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a special use permit was granted for a day care facility per Section 300-53 of the Tow of Yorktown Zoning Code for a period of three (3) years, with same provisions as the prior permit.

Recording Secretary, Glenda Daly
Meeting adjourned at 9:00pm
Happy Zoning!