

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
JULY 25TH, 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, July 25th, 2019. The meeting began at 6:30 p.m.

The following members of the board were present:

Gregg Bucci
Gordon Fine
William Gregory
John Meisterich

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

It was announced that the next public hearing would be held September 26th, 2019, site visits are scheduled for September 21st, 2019. Mailings are to be sent from September 2nd to September 11th, 2019.

NEW BUSINESS

AMERICAN CUSTOM BUILDERS

#24/19

**Property Address:
2599 Gregory St.**

Section 27.14, Block 1, Lot 32

This is an application for a proposed front porch with a front yard setback of 38.66' 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 R1-40 zone.

Upon motion by Fine, seconded by Gregory and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

GENCARELLI

#25/19

**Property Address:
1525 Ivy Rd.**

Section 16.13, Block 1, Lot 48

This is an application for a special use permit as required per 300-62(B) of the Town Zoning code to park an RV on the property. This property is located in a R1-20 zone.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

ZISSEL

#26/19

**Property Address:
350 London Rd.**

Section 17.17, Block 3, Lot 32

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.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

MINTZ

#27/19

**Property Address:
3501 Frost Rd.**

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

Section 16.10, Block 1, Lot 2 a R1-10 zone.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

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.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

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

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector, Planning, County Planning, DEP, Town Board & Town Engineer. Request was made for copies of prior variances.

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

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector, Planning, County Planning, Town Engineer & Town Board

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 41' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-80 zone.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

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

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector.

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
Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 21st, 2019, a Public Hearing on September 26th, 2019, and referred to the Building Inspector and Town Board. Request was made for copies of prior variances of other lot.

CONTINUED PUBLIC HEARINGS

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

Kathleen Dineen appeared before the Board with an update on the application.

Ms. Dineen said the proposal they brought before the Board 2 years ago, the 2-story building, was denied by the Planning Board. The Planning Board said their number one concern was parking and the new building. The size of the building was too large for the lot, but that was secondary. The third was the traffic. The new proposal that was brought before the Planning Board last month was for a 1-story building and they're going to bump out the back and going to put 3 classrooms in. They have 66 children now. That will increase to 104. The proposal the last time was for 164, so it was reduced. The square footage now is 3,660. They applied for 6,710. They were tripling it initially and requesting 10,980. It was scaled down as were the number of students.

Mr. Bucci said the second application is the building with coverage of 10,057 sq.ft. where 7404, is that changing now.

Ms. Dineen said yes, there's a whole new proposal before the Planning Board.

Mr. Gregory told Ms. Dineen that essentially at some point they're going to have to come back here with a modified application.

Mr. Bucci told Ms. Dineen, you're going from 10,057 sq.ft where 7404 sq.ft., what are you going to need instead of the 10,057 sq.ft. If it's 6700 where 7404 is the maximum, do you even need that application.

Mr. Gregory told Ms. Dineen you may not need the variance but you may need to modify the special permit.

Chairman Fine asked if they need a renewal, but the renewal might be modified because they're changing the dimension.

Ms. Dineen son, Max said he did not realize the Board does not meet in August, so he went in last week to the Building Department to get everything thinking he'll come to the August meeting, and in September they'll get the final.

Chairman Fine asked if he filed a new application just for the renewal.

Max said no, he got the letter from the Board and he thought that was the renewal. He has the application here.

Mr. Gregory said what we may be able put it on for September and refer it to the Building Department for the renewal.

Mr. Meisterich asked if that time work out.

Max said their current permit ends September 26.

Mr. Gregory said we can refer it now and have the public hearing in September.

Chairman Fine said what's going to happen is going to refer it to the Building Department to do an

inspection for the renewal. Assuming you get the renewal in September, you're still going to have to come back once you get everything done with the Planning Board to modify the permit and see if you need a variance or not.

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

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.

Applicant before the Planning Board.

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

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

Not open. No names on receipts for mailing.

BELLISSIMO #21/19 This is an application for a renewal of a special use permit for a day care. Required under section 300-53 of the Town Zoning Code. This property is located in an I-1 zone.

Property Address:
2985 Navajo St.
Section 6.18, Block 1, Lot 29

Mailings and sign certification in order.

James Hubert appeared on Applicant's behalf.

Memo from the Fire Inspector dated July 16, 2019 states: At the time of the inspection, all was found to be in good order and no violations were noted. I have no objections to the renewal of the special permit.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, the application for renewal of a special use permit for a day care was granted for a period of three (3) years upon submission of the sign affidavit.

FINELLI #22/19 This is an application for a proposed addition with a combined side yard setback of 38.6' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town Zoning Code.

Property Address:
731 Locksley Rd.
Section 26.20, Block 1, Lot 58 This property is located in a R1-20 zone.

Mailings and sign certification in order.

Mr. and Mrs. Finelli appeared before the Board. Stated they're expanding the family room, dining room, great room. The family is expanding so looking to accommodate everyone.

Memo from the Assistant Building Inspector dated, July 25, 2019 states: I have inspected the property on July 22, 2019 and noticed a pool, deck (permit is required) and what appears to be a pool barrier not in compliance with the NYS property maintenance code.

I have no objections in granting relief as long as all of the above-mentioned matter is corrected. The applicant will need a building permit for this addition.

Chairman Fine told the Applicants that if the Board grant the variance, but it is contingent the applicant taking care of the items addressed by the building inspector.

The Board discussed the application and applied the statutory factors. Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, the application for a variance was granted for a proposed addition with a combined side yard setback of 38.6' 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, and on the condition that the pool and pool deck must receive certificates of occupancy, and the pool barrier must meet property maintenance per the code requirements.

FRATOLILL #23/19 This is an application for a garage addition with a side yard setback of 28.6' where a minimum of 30' is required and a combined side yard setback of 70.9' where a minimum of 80' is required as per section 300-21 and appendix A of the Town zoning code. Property is located in a R1-80 zone.
Property Address:
2352 Blue Spruce
Section 37.07, Block 1, Lot 21

Mailings and sign certification in order.

Bruce Zarcheski of Nixon Architecture appeared on applicant's behalf.

They are seeking a variance for the subject property located in an R1-80 zoning district on a lot size over 2 acres. There's an existing 3600sq.ft., 1 story, wood frame, single family residence including an existing attached 2 car garage. Proposing a 20x24, 1 story garage addition. It's an existing 2 car garage just going to add a third bay. The third bay itself will be 482 sq.ft. As indicated in the notice there will be a new side yard setback of 28.6ft. where a minimum of 30ft. is required. Asking for an area variance of 1.4 ft., also need to get a combined side yard setback variance. The proposed combined side yard needed is 70.9ft. where 80ft. is required, asking for a combined side yard setback area variance of 9.1ft.

Around the perimeter of the property is advanced growth as far as trees, bushes and foliage. The only opening is in the front by the driveway. There is a good amount of buffer between the properties. The house to the East is probably over 200ft. away, you cannot see it. The house to the West is a little bit closer, it is about 150ft.

Mr. Zarcheski showed the plans to the Board.

He said there are other properties in the R1-80 area that have 3 car garages, that's become more common at this stage for not only storage of autos, but added space for lawn mower, snow blower, kids toys, pool and garden equipment, keep all that inside the building.

The proposed use itself is normal for the area and the design of the addition is in keeping with the character of the neighborhood.

Meg Nockman, neighbor on the East side of the property came to voice her concerns. She said her question was the buffer zone, would they maintain their privacy between the properties with the landscaping. That is a big concern.

Chairman Fine asked what's there now, the buffer between you now.

Ms. Nockman said the landscaping, the trees.

Mr. Bucci asked Mr. Zarcheski if they will be impacting the trees.

Mr. Zarcheski said it's very wooded, not removing any trees, bushes, and shrubs.

Memo from the Assistant Building Inspector dated, July 22, 2019 cited no objections

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Bucci and unanimously voted in favor by Bucci, Fine, Gregory, and Meisterich, the application for a variance was granted for a garage addition with a side yard setback of 28.6' where a minimum of 30' is required and a combined side yard setback of 70.9' where a minimum of 80' is required as per section 300-21 and appendix A of 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 tree and buffer vegetation to the East of the property remain intact.

**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.

Applicant no present. Not open. Letter to be sent to the applicant for status.

**MENDOZA #17/19
Property Address:
1824 Hanover St.
Section 37.19, Block 3, Lot 32**

This is an application for a renewal of a special use permit for an accessory apartment.

Not open. No sign affidavit in the file.

**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.

The board discussed the Planning Board's denial of the subdivision based upon the prior decision of the Zoning Board in which the ZBA granted the application for a third dwelling unit in a two family home. The decision contained a stipulation that there be no further subdivision.

The board discussed reopening the matter and consulted with special counsel as to if the board could limit the language of the new vote.

Upon motion by Fine and seconded by Bucci, the board unanimously voted to reopen the application to specifically decide if the prior decision could be changed to remove the language that no further subdivision be permitted. The matter was referred to the Planning Board and the building inspector and set down for a public hearing on September 26th.

Recording Secretary, Glenda Daly
Meeting adjourned at 7:49pm
Happy Zoning!