

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
JANUARY 28, 2021**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, January 28th, 2021. The meeting began at 6:30 p.m.

The following members of the board were present:

Robert Fahey
Gordon Fine
William Gregory
John Meisterich
Anthony Tripodi

Also present is Robyn Steinberg, Town Planner/Host, Ed Lachterman, Town Board Liason, and Adam Rodriguez, Special Counsel. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held February 25th, 2021. Mailings are to be sent from February 1st, 2021 to February 10th, 2021.

NEW BUSINESS

MCDONALD'S **#1/21** This is an application to allow 48 parking spaces (including 3 ada) where a minimum of 62 spaces are required as per section 300-182 of the Town Zoning Code
Property Address:
3481 Crompond Rd.
Section 36.05, Block 1, Lot 10

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 25th, 2021, and referred to the Building Inspector and Planning. Site Visits will be done by the Board members separately.

GARRETTO **#2/21** This is an application for an addition with a side yard setback of 11.13' where a minimum of 15' is required and a combined side yard setback of 26.73' 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:
3350 Poplar St.
Section 17.14, Block 3, Lot 4

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 25th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

MIRESSI **#3/21** This is an application for a special use permit for a home office as per 300.76 of the Town Zoning Code.
Property Address:
535 Jerome Rd.
Section 59.1, Block 1, Lot 10.1

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 25th, 2021, and referred to the Building Inspector and Planning. Site Visits will be done by the Board members separately.

BRADY #4/21 This is an application for a proposed front and rear addition with the front addition having a setback of 22.5' where a minimum of 30' is required as per 300-21 and the Bulk requirements set forth for this sub division. This property is located in a R1-20 zone.
Property Address:
1540 Pine Brook
Section 48.11, Block 1, Lot 16
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 25th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

CICCHETTI #5/21 This is an application for a new deck with a combined side yard setback of 38.3' where a minimum of 40' is required as per 30-21 and Appendix A of the Town Code. This property is located in a R1-20 zone.
Property Address:
3206 Princeton Dr.
Section 16.19, Block 1, Lot 23
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 25th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

CONTINUED PUBLIC HEARINGS

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
Gordon Fine recused. John Meisterich to be acting Chair.
Michael Grace, attorney representing the applicant.
Acting Chairman Meisterich said last month we opened this application and immediately adjourned it. It was subject to mailings, believe the mailings were received. This application was put out before this Board pretty long time ago back in 2019 and just getting opened up last month. There are some memos from the Planning Board and Building Inspector.
Mr. Grace said he told Acting Chairman Meisterich he does not know if there is anyone else here on the application, if there is not, want to spare you the exercise of going through memos and have the memos submitted to the record. Imagine most of them are going to bring up the fact that it probably a stretch under the current state of the law. Did speak to the Town Supervisor about it, and his argument is essentially he do not think it is a bad use. Know the bar is very high for use permit under the current state of the law and really what needs to be done if the Town Board is amenable to it. Suggested they give him a shot at drafting legislation to create some statutory provisions to allow for outdoor storage because this is a use that comes around quite often. The big issue is whether DEP had an issue with what was going on over there. You have DOT right now running an organic waste yard on the corner of 100 and 119, which is much closer proximity to the reservoir than anything Mr. Sarlo is doing. If you guys are amenable to a special use permit, will go that route, otherwise think maybe the town got to look at legislation. We did this on Crompond Road 3717, which was Ernestos old site, the special use permit section has no standards and it is one (1) or two (2) sentences. The 202 site at least had the underlying compatible zoning and this is residential. DEP as far as he knows sent a memo that they do not care, they felt it was not jurisdictional for them and leave it to local determination. Think that may be an invitation to try to tackle this problem through an amendment to the local code, and in that case adjourning this application and see if I can convince the Town Board to take up some legislation in that regard because this is not the only application out there, have another client that is also look to similar use.
Acting Chairman Meisterich said basically the memos we have offer various interpretations from the

Planning Department, Building Department as to whether the subject application is appropriate and then there is another series of memos from DEP and the Town Engineer with request and requirements. The latter set of memos would be relevant after we make a determination as to what needs to be done here.

Mr. Gregory said probably the best thing to do at this juncture is read the memos particularly the ones that came in for the November meeting that what we can do is basically discuss the particulars of the application as it relates to the code.

Mr. Gregory read the following memos and they were submitted to the file.

Memo from the Planning Board date, November 30, 2020.

Memo from the Conservation Board dated, December 4, 2020.

Memo from the Building Department dated, December 9, 2020.

Memo from the Planning Department dated, September 11, 2019.

The Planning Board memo of September 11, 2019 basically indicated at the end of the memo that it is not compatible.

Memo from the Building Department dated, September 13, 2019.

Acting Chairman Meisterich said given all those, particularly the Building Inspector memo on the 9th, think we are looking at a different application than was presented or applied for. Think possible we would like to make a ruling here, do not see a path to just wait indefinitely for the applicant to convince the Town Board to re-legislate this, it is a good approach necessarily but do not know that we can wait for that without making this determination.

Mr. Tripodi said the legislation that currently exist do not allow it, so if we were to act on it based on the current legislation, if Michal can get additional legislation or change, then it can always be revisited at some point in the future.

Mr. Grace said the memos actually are not that surprising in their conclusions, especially on the threshold issue of compatibility, but they are surprising denying in their objections. Understood there is a real thirst for this type of use in town, it just does not exist and the problem is most commercial properties are not just for storage yards, it is a definite use that is necessary. Think it is a good location for it, think a lot of the issues as to control and regulations guarding the reservoir, tightening up the site, policing the use, all those things should be taken care of and they are better off taken care of by the town than they are when they become-rogue sites which is going to happen over and over again in the town until they state to address the issues.

Do what you think is best, would like you to carry it for a little bit but if in good conscience you cannot do that, then will abide by whatever decision you make.

Acting Chairman Meisterich said we could carry it but we make a determination that you are looking at a use variance and spell out the perimeters of what it is you need to apply for and you would tell us if you have any kind of plans to apply for that type of variance.

Mr. Grace said he have no problem with that approach, have to go back to the client anyhow. The client is well aware of the high bar that the application presents and his advice to him would be do not even bother except for the fact he actually think in practical terms, in truth it is really not a bad site for what he is looking to do, it is a need that is desperately high demand in the town. The objections are good one, concerns are good ones and think all the concerns can be addressed. It is basically a parking lot for landscapers at this point.

Mr. Gregory said his problem with carrying it is to track it. Michael you have already approached the Town Board which is really the correct avenue to go with this. To ask the Zoning Board to continue this application particularly in light of the fact that under the present legislation it is a use variance, which really has, in his mind, no chance of reaching a legal bar presently to get a use variance there

or as you probably well know for the factors that you have to meet. When you start with the last one, which is, was this thing self-created. This obvious answer is yes it was, and you have to meet each factor, you cannot just meet three (3) or four (4) of them. Problem is basically at the end of the day he is not looking at a successful use variance application, based on what we have seen so far and rightly this think belongs before the Town Board because they can create legislation that can accommodate what it is what you need.

Mr. Fahey said the funny thing is this did come before the Town Board, there is a memo in the file that goes back to March 26, 2019, and all the concerns that we are raising right now were raised at that meeting. So we are going to refer it back to the Town Board again.

Mr. Gregory said no, not going to refer it back anymore because we really do not have anything to act on. This is a use variance.

Mr. Grace said he heard them loud and clear, obviously nobody has an appetite for this. Understand when it went before the Town Board, albeit maybe a different Town Board, what constitute a Town Board may have been a little bit different, also do not know what the argument were that was made. Had very good discussion with the Town Board and with the Town Supervisor. Based on the fact that he once sat in that seat and would not push forward something that he thinks is bad for the town. Know from having lots of clients that are in these types of businesses that particular use, the ability to park your truck somewhere. This goes way back.

Mr. Gregory told Mr. Grace he agrees with him, just trying to figure out what the role the Zoning Board would be at this juncture. At the end of the day, this is a use variance and unfortunately because it is a use variance, and the legal bar for this thing is very high. As we continue to hold on to this it is false hope. You have to get legislation pass.

Mr. Grace said do not want to be unfair to you anymore, why not close and will wait for your decision, in the meantime can anticipate what it may be and will pursue it with the Town Board.

Mr. Fahey said from what you see here there is reluctance by any Board, Planning Board looked at it, Town Board looked at it, now it comes to us, now we are reluctant to look at it. Somebody got to say at some point going to have to say let's make a decision here and you have to step up and do it. Whether you like it or not you set precedence or you do it, but make a decision. If you want to close and reserve and have a conversation, we can do that but at some point somebody got to make a decision on it. Right now it has been before everybody and everybody is kicking the ball down the street nobody want to make a decision on it.

Mr. Grace said to that very point is because it is not an easy kill because the application and location actually make some sense.

Mr. Fahey said the biggest is it is by the reservoir and everybody is reluctant to want to talk about the water. If it was any where else in town it would be a moot point, would probably be able to work something out. The fact that it is right next to the reservoir is the biggest concern.

Mr. Gregory said not really, because what we are talking about is having it in the residential zone.

Mr. Fahey said if you read the language in the memos the reluctance is based on the fact they are pushing it back on DEP and they are pushing it back on New York City on the watershed.

Mr. Gregory said not entirely.

Acting Chairman Meisterich said it is two (2) separate threads, one is the zoning and the other is the environmental and think our first thing to think about is the zoning. Guess in theory an applicant can engineer the safety systems or the environmental protocols to deal with that, but the zoning comes first. As we were discussing, think if we were to force the applicant into a mode of going for a use variance at this point, that is actually to your disadvantage, because it is a small probability that you are going to get that approved. You might be able to get some legislation that causes you to return to us in some way shape or form that is less drastic, so think we probably just close and reserve this and rule. Would call it without prejudice to say on this particular application as it stands. We will rule and that does not stop you from going to the Town Board and even potentially coming back in the future with a different application as you wish.

Mr. Grace said he fully understand the hurdle, it does not come as a surprise. Think the nature of the

discussion though is helpful in the sense that to a great degree this use at that site makes some sense but the code does would not allow it, and the only argument he would make contrary is that exactly what the Zoning Board is for, is to give the variance based upon the fact that they over rule, that the zoning code does not allow something that otherwise would be compatible or useful. Mr. Gregory said the problem is that legally we have four (4) factors we have to consider, and so far have no heard from the testimony that they manage to address them successfully. Mr. Grace said not going to be able to prove that the applicant did not come to the use because he is looking to create the use. Is there an alternative use, yes there is an alternative use. If he heard strong worded memos that this will never happen, not hearing that. What he is hearing is essentially is hope, not fooling himself but he is hearing there is some merit to the use in that location but the law is not going to allow it under present frame, so he will go to the Town Board.

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

FREDERICK #40/20 This is an application for an addition with a rear yard setback of 28.67' where a minimum of 30' 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:
2811 Hickory St.
Section 27.09, Block 2, Lot 44

Adjournment requested by applicant. Applicant to amend the application.

NEW PUBLIC HEARING

FERNANDES #42/20 This is an application to allow an addition with a side yard setback of 12.5' where a minimum of 15' is required, a combined side yard setback of 26.97' where a minimum of 40' is required and a front yard setback of 31.32' 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:
2605 Flagg Pl.
Section 26.20, Block 1, Lot 21

Mailings and sign certification in order.

Michael Messinger, Architect, representing the applicant.

Mr. Messinger said there is a two (2) block area right near the high school off of Route 35 that the houses were built in the 50's, they are all pretty similar, they are all on small lots. It looks like most of them do not conform to the R1-20 zone. Look like they were built under the R1-10 zone, a number of these things are pre existing non-conforming, like the width of the lot, it is a little bit to narrow to the zone, road frontage and some of that results in the need to ask for a variance to do this addition on the side of the house.

Chairman Fine asked what the nature of the addition is.

Mr. Messinger said the house is small, it is a one (1) story, about 1000 s.f., they want to enlarge the living area and create a dedicated dining room.

Chairman Fine asked if he submitted plans.

Mr. Messinger said yes, the have rudimental plans. Because of Covid they have not done a lot of work inside the house, and do not have real details to define.

Memo from the Assistant Building Inspector dated, January 22, 2021 states: I have inspected the property on January 21, 2021 and have no objections to granting relief. This application will require a building permit and certificate of occupancy.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow an addition with a side yard setback of 12.5' where a minimum of 15' is required, a combined side yard setback of 26.97'

where a minimum of 40' is required and a front yard setback of 31.32' where a minimum of 40' is required as per 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.

EPSTEIN #41/20 This is an application to construct a roofed porch with a front yard setback of 23.07' where a minimum of 40' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is in a R1-20 zone.
Property Address:
2923 Curry St.
Section 27.06, Block 2, Lot 22

Mailings and sign certification in order.

David Barbutu representing the applicant

Mr. Barbuti said the applicant desire to construct a 9x5 front roofed porch at the front door. There presently is a large slate patio that sits towards the house, the want to eliminate all that impervious surface and create the smaller roofed front porch. The reason we are here is the present house, as most along Curry Street, have roughly a 28ft. front yard setback where 40ft. is required. When we put the front porch with roof in the front of the house we have approximately 23.7ft. front yard setback.

Memo from the Assistant Building Inspector dated, January 22, 2021 states: I have inspected the property on January 21, 2021 and have no objections to granting relief. This application will require a building permit and certificate of occupancy.

Chairman Fine asked if the plans were submitted to the Building Department.

Mr. Barbuti said yes, and showed the Board the site plan.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to construct a roofed porch with a front yard setback of 23.07' where a minimum of 40' is required as per 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 addition be built in substantial conformity to the plans submitted.

MEDINA #38/20 This is an application to allow a deck with a side yard setback of 4.59' where a minimum of 15 is required as per 300-241 of the Town Zoning Code. This property is in a CC zone.
Property Address:
445 East Main St.
Section 17.05, Block 1, Lot 3

Not open. Applicant not present at meeting.

CLEARY #39/20 This is an application to allow an existing deck with a rear yard setback of 1.64' where a minimum of 10 is required as per 300-21 and Appendix A of the Town Zoning Code. This property is in a R1-10 zone.
Property Address:
3443 Lakeside Dr.
Section 15.16, Block 2, Lot 39

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant.

Chairman Fine asked if this is an existing deck.

Mr. Tetro said it is a replacement of an existing deck. There was an existing deck for quite some time when the owners bought the house, the inspection report indicated that the deck was falling apart so they reconstructed the deck and the Building Department came in and issue them a violation, so we are legalizing the deck. Nothing was expanded, it was just replaced.

Memo from the Assistant Building Inspector dated January 21, 2021 states: I have inspected the property on January 21, 2021 and have no objections to granting relief. This application will require a building permit and certificate of occupancy.

Letter from Deanna Clark, former owner, dated, October 28, 2020 states: I owned this property from

May 1976 until I sold it in August 2006.

When I originally purchased the property, it had an existing rear deck which remained in place the entire time I lived there.

I have recently seen photos of the deck that is currently in place and it appears to be the same size and configuration as it when I owned the property

Mr. . Tetro showed the photos and layout plan of the deck.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow an existing deck with a rear yard setback of 1.64' where a minimum of 10 is required as per 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.

JARA #43/20

Property Address:

1745 Central St.

Section 48.07, Block 1, Lot 34

This is an application to allow a retaining wall and fence in the rear yard with a height of 9' where a maximum of 6.5' is permitted as per 300-13(F).

Mailings in order. Photo of sign submitted, no sign certification.

Michael Grace, Attorney, representing the applicant.

Mr. Grace said this is a request to legalize a fence that is sitting on top of a necessary retaining wall.

The fence has been up there about 10 years and it is a rear yard fence. It sits upon a cinderblock wall which put the wall and the fence at about a height of 9ft.

The only neighbor that is impacted at all by the height variance requested is the neighbor to the rear which fronts on Summit Street. That neighbor just bought the house and we have a letter from her, there is no objection to it.

This is one of these situations where legally that fence can be moved off the retaining wall either inward of the property line or towards the property line, and either way would not make any sense.

Memo from the Assistant Building Inspector dated, January 22, 2021 states: I have inspected the property on January 21, 2021 and observed that there is also a 6' fence in the side yards that require a variance. As per Section 300-13(F) a maximum of 4.5' fence is permitted in a front and side yard and a 6.5' is permitted in the rear yard. I have no objections in granting this variance.

Chairman Fine said basically what we are looking at is not only the one you applied for but it looks like there is a fence in the side yards.

Mr. Grace said his confusion with that is he always think the side yards start with the front building line back, or rear building line back.

Mr. Gregory said the rear yard is considered anything behind the building whether it is on the side or rear property line.

Chairman Fine read the letter from the neighbors Juan and Marisol Diaz dated, January 22, 2021 which states: We share a back yard which the fence subject of the requested variance is located.

We recently purchased the property and have no objection to the fence or its location. In fact we are in favor of this Board granting the requested relief for a fence height variance. We prefer the variance be granted rather than cause the fence to be moved or lowered.

Chairman Fine asked Mr. Grace if he wants the Board to amend the application to include the 6ft. fence in the side yard.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow a retaining wall and fence in the rear yard with a height of 9' where a maximum of 6.5' is permitted, and a 6' fence in the side yard where a maximum of 4.5' is permitted as per 300-13(F). With the stipulation it pertains only to the requested variance and not the remainder of the property line, and subject to the applicant's

attorney submitting the sign certification.

CARVALHO #44/20
Property Address: 1681
Summit St.
Section 48.07, Block 2, Lot 9

This is an application to subdivide a lot creating 2 lots under the required 10,000s.f. where a minimum of 20,000 s.f. is required. This property is located in a R1-10 zone.

Mailings in order. Photo of sign submitted, no sign certification.

Michael Grace, Attorney, representing the applicant.

Mr. Grace said this one you will end up having to adjourn for a little while. The concept here is the gentleman owns a piece of property fronts on Summit Street, fronts on Front Street and borders on Virginia Road. It is an R1-10 parcel, it is on 10,000 s.f., which was conforming when built. R1-10 now requires 20,000 s.f.. This may have been in front of the Board at one point or maybe the Town Board at one point, it never went anywhere because it did not make any sense because there is nothing you can do on Front Street anyhow, because there is no ability to hook up to sewers. That is the change in circumstances, that really kind of prompted this application and it does not make sense what so ever to have a residential backyard fronting on Front Street.

Front Street was designed to be a industrial commercial district, and probably now more than ever those properties have viability for the use they were always intended to function as along Front Street. They just happened to be the historical remnants of two (2) residentially zoned lots on Front Street, one is this gentleman's back yard, and one is the little house that is back there as well. What he is looking to do now there is the ability to hook up to sewers that becomes viable. So the idea is to go back to the original lot that was the lot on Summit Street, take the lot that is acting as his back yard which fronts on Front Street together with the paper road Virginia Road, which is part of his parcel which gives him about 15,000 s.f on Front Street, subdivide that off or redo what would have been a necessary merger when they went from R1-10 to R1-20 that would have caused the lots to merge. To break that merger that occur as a matter of the up zoning from R1-10 with minimum of 20,000 s.f., break that old merger, subdivide the lot off and then develop that Front Street lot for what it should be developed as a non-residential use.

The application will need Zoning Board approval to approve the residual lot which is the original R1-10 lot where the residence is fronting on Summit Street, which will now be going from a 20,000 s.f. lot back to a 10,000 s.f. lot. It requires the Planning Board to approve the subdivision of the parcel and none of it makes any sense unless the Town Board removes as a residential use to a non-residential use and in that regards you have very recently George Roberta property which is very close proximity one (1) lot over.

Mr. Fahey asked what they want to put on the property, what does he want to do with the lot. Mr. Grace said he is not a developer, so he does not think he has any definitive ideas and the Planning Board pointed out it may be problematic for them to give an opinion at this point, they would like to see the plans of development which makes sense. The thing is when you have three (3) different Boards with jurisdiction over all plan, if one of those legs fall off you do not have anything, so it is kind of simultaneously doing three (3) different applications. To have my guy spend a lot of money on a site plan at this point does not make sense.

Memo from the Planning Board dated, January 21, 2021 states: The Planning Board, at its meeting on January 11, 2021 discussed the subject application. This application will require subdivision application to the Planning Board and a rezone application to the Town Board to determine if the new lot created on Front Street will be viable. The Board requests the applicant submit a subdivision application and proposed sketch plan for a potential development on this lot before they can make a recommendation on the variances requested.

Memo from the Assistant Building Inspector dated, January 23, 2021 states: This application will need more information and documentation, including zoning analysis, in order to review this. I reached out to the applicant's representative and mentioned this to him.

Chairman Fine said we will need to adjourn this for further review by the town and further submissions by the applicant.

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

GRACE #45/20

Property Address: 959

Hanover St.

Section 59.07, Block 1, Lot 4

This is an application to allow a caretaker's cottage as per 300-47 of the Town Code. This property is in a R1-80 zone.

Mailings in order. Photo of sign submitted, no sign certification. Applicant to submit sign certification. Mr. Grace said he has always toyed with the idea of maybe putting up a small cottage on the property.

Chairman Fine asked how many acres he owns.

Mr. Grace said almost 7, there are 2 existing lots. His understanding on this is you really have to be able to show the creation of a separate lot but for road frontage and there really are 2 lots and it is not a real issue, but also thinks the statute requires the guest cottage sit on the 2nd conforming lot. That would mean redrawing the lot lines, he owns both lots but have never merged them. Held them on separate tax parcels.

Memo from the Planning Board dated, January 21, 2021 states: The Planning Board, at its meeting on January 11, 2021, discussed the subject application with the applicant, however there was no plan submitted showing where the proposed cottage would be constructed. More information is needed in order to evaluate this request.

Memo from the Assistant Building Inspector dated, January 23, 2021 states: This application will need more information and documentation in order to review this file. I reached out to the applicant and mentioned this to him.

Mr. Grace said he will provide that.

Chairman Fine asked if he will have to cut a new driveway?

Mr. Grace said no he does not, there is a macadam drive to the house and the garage, and there is a gravel drive to the barn which is down below. The cottage will be built almost behind the barn, so you probably would not even notice it, it will be small think about 800-1000 s.f. at tops.

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

CLOSED AND RESERVED

SARLO

#29/19

Property Address:

675 Saw Mill River Rd.

**Section 59.14, Block 1, Lot
20, 21, 22**

This applicant is requesting a special use permit for having a contractor's yard and parking commercial vehicles.

Acting Chairman Meisterich said based on the comments as we were having the hearing and it is closed. We are all in agreement based on our comments that the application for a special permit for contractor's yard was not going to be approved because it did not fit with the residential and country commercial zones that the properties are in, so we were either looking at rejecting it or request whether he want to amend it to a use variance. Think that based on everything we said it is in his best interest to outright reject this application, that way if we start telling him it is this, it is that, it may hamstring him in the future if we some kind of determination like that.

Mr. Tripodi said under the current legislation, this application is going nowhere. Do not see any reason to drag it on any longer, and just shut it down now and if there is a change in legislation, we can always revisit it with a new application in the future.

Mr. Fahey said he agree with that.

Mr. Gregory said at the end of the day this this is really a use variance, there are four (4) factors that needs to be considered legally and the applicant really could not satisfy, in his mind, those four (4) factors, so suggest we basically deny the application.

Acting Chairman Meisterich said it leaves it open that if he ever wants to try as a use variance he can.

Mr. Fahey said if he goes to the Town Board and they want to change the legislation and they approve it, then the guy comes back.

Mr. Gregory said right now it is a use variance application, that is what it is, and at the end of the day the only option that the applicant has is to try and convince the Town Board to change the legislation. The Zoning Board does not have the ability at this juncture.

Mr. Fahey said based on the merits it does not qualify.

Mr. Tripodi said there is a judicial entity, you take the facts and apply it to the law, and in doing that we arrive at the conclusion that cannot be granted.

Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Fahey, Gregory, Meisterich, and Tripodi, the Closed and Reserved is adjourned for written decision from Special Counsel.

Recording Secretary, Glenda Daly

Meeting adjourned at 7:57pm

Happy Zoning!