

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
FEBRUARY 25TH, 2021**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, February 25th, 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 March 25th, 2021. Mailings are to be sent from March 1st, 2021 to March 10th, 2021.

NEW BUSINESS

SINDACO #6/21 This is an application for a special use permit for a day care in
Property Address: Yorktown United Methodist Church.
2300 Old Crompond Rd.
Section 37.09, Block 1, Lot 59

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 March 25th, 2021, and referred to the Building Inspector, Fire Inspector and Planning Department. Site Visits will be done by the Board members separately.

LIBERATORE #7/21 This is an application for an addition with a front yard setback of
Property Address: 27'5" where a minimum of 40' is required as per section 300-21
468 Granite Springs Rd. and Appendix A of the Town Code. This property is located in a
Section 27.14, Block 3, Lot 2 R1-20 zone.

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

FREDERICK #40/20 This is an application for an addition with a rear yard setback of
Property Address: 28.67' where a minimum of 30' is required and for an existing
2811 Hickory St. shed with a rear yard setback of 14' where a minimum of 30' is
Section 27.09, Block 2, Lot 44 required as per 300-21 and Appendix A of the Town Zoning Code.
This property is located in a R1-10 zone.

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant.

The application is construct an addition on the northern side of the house. Last month's appearance was adjourned because there was a shed constructed on the property that was not picked up on the

site plan. The application was amended to include the shed as part of this variance.

Memo from the Assistant Building Inspector dated, February 19, 2020 states:

I have inspected the property on February 16, 2021 and have objections in granting relief. The applicant will need a building permit and certificate of occupancy.

Chairman Fine asked what is the nature of the addition?

Mr. Tetro said the property is on the corner of Hickory and Hemlock, taking the house and extending north to keep in line with the rear of the house with a covered porch that is extending the existing porch across the front of the house. Currently the house is non-conforming to the rear property line, the addition is clipping just the corner and moving out of the setback.

Mr. Tetro showed the plans of the house and discussed the layout.

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 for an addition with a rear yard setback of 28.67' where a minimum of 30' is required and for an existing shed with a rear yard setback of 14' where a minimum of 30' 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 is to 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

Mailings and sign certification in order.

Gonzalo Medina present for the meeting. Application to legalize a deck that had an open permit. Spoke with the Building Inspector, he told him he got as far as to inspect the footings of the deck, but the application was never closed. The deck has been there for quite a while, would like to repair it and legalize it.

Memo from the Planning Board dated, January 21, 2021 states:

The Board saw no planning issues with the request and therefore has no objections to the granting of this variance.

Memo from the Assistant Building Inspector dated, January 25, 2021 states:

I have no objections to granting the requested relief as long as the applicant is made aware that they will need 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 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. With the stipulation that it pertains only to the requested variance and not the remainder of the property line.

CARVALHO #44/20 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.
Property Address:
1681 Summit St. This property is located in a R1-10 zone.

Section 48.07, Block 2, Lot 9

No new material received from 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 This is an application to allow a caretaker's cottage as per 300-47

Property Address: 959 of the Town Code. This property is in a R1-80 zone.
Hanover St.

Section 59.07, Block 1, Lot 4

No new material received from 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.

NEW PUBLIC HEARING

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

Section 36.05, Block 1, Lot 10

Mailings and sign certification in order.

David Pernick, Attorney, representing the applicant. He said the property is presently zoned C4 and has been operating as McDonald's restaurant over three (3) decades. The property previously obtained site plan approval from the Town Planning Board in 2019. The operator of McDonald's decided to add an addition on the southern side of the property. With that, they submitted an amended site plan application. Due to the addition in the rear, the structure is being pushed further to the south. The parking count requirement went up and the amount of parking spots they had went down. The applicant is seeking a variance for the number of parking spaces. There are 62 parking spaces required. The applicant is proposing 48 on the property. That includes 3 ADA spots. The applicant is seeking a 15 spot parking space variance. The 886 sq.ft addition to the rear of the existing building will be used as freezer and storage space. The inclusion of the addition is going to technically push the rest of the site further to the south.

Chairman Fine asked if they are adding additional drive-up windows.

Mr. Pernick said no, they are not adding an additional windows. As part of the site plan application that was approved, they are adding a side by side drive-thru, so it is going to be two (2) drive-through windows next to each other which then converts to a single point for the actual pay window and pick-up window.

Chairman Fine asked if it is to change the curb cut onto 202.

Mr. Pernick said no.

Memo from the Assistant Building Inspector dated, February 19, 2021 states:

I have inspected the property on February 16, 2021 and have no objections in granting relief.

Memo from the County Planning Board dated, December 14, 2020 states:

The Westchester County Planning Board has received a revised site plan (dated revised May 24, 2019) for the proposed remodeling of a 3,435 square foot McDonald's fast food restaurant on a 1.05-acre site located at 3481 Crompond Road (US Route 202/NYS Route 35). In 2019, the Town granted approval to the applicant for site modifications to add dual drive-thru lanes and to reconfigure the existing parking area with 52 parking spaces. The current application proposed revisions to that existing approval by expanding the building footprint to 4,321 square feet and providing 48 parking spaces.

We have no objections to the Yorktown Planning Board assuming Lead Agency status for this review.

We previously reviewed this matter under the provisions of Section 239 L, M, and N of the General Municipal Law and Section 277.61 of the County Administrative Code and we responded, to the Town in a letter dated August 2, 2019. We again offer our comments for the Town's continued consideration.

1. Croton Watershed protection.

We note that the sire is located next to Hunter Brook, a waterway that connects to the Croton Reservoir. Currently, water runoff flows through an inlet pipe into the brook. While there is to be minimal disturbance of the site adjacent to the waterway, and the total impervious surface of the site will decrease by 1,733 square feet, we recommend that the Town work with the applicant to install additional stormwater treatment measures, such as a vegetative buffer, rain garden, or other natural water retention area in the southeast section of the site, in order to better manage stormwater runoff before it enters the brook.

Components of the site development may be subject to compliance with the New York City Department of Environmental Protection (NYC DEP) *Rules and Regulations for the Protection from Contamination Degradation and Pollution of New York City Water Supply and its Sources*, including the preparation of a Stormwater Pollution Prevention Plan. Adequate erosion and sediment control and stormwater runoff water quality protection, both during and after construction, are of critical importance

2. Recycling.

We recommend the Town require all applicant to verify that sufficient storage measures are provided to accommodate the expanded County recycling program. County regulations for recycling may be found at: <http://environmenta.westchestergov.com>.

3. Green building technology and bicycle parking.

We recommend the applicant consider the potential for including “green” or sustainable building methods and technologies into the proposed remodeling plan. The applicant should also consider providing bicycle parking for employees and nearby residents.

Please inform us of the Town’s decision so that we can make it a part of the record.

Memo from the Planning Board dated, February 25, 2021 states:

The Planning Board is currently reviewing the McDonald’s site plan for amended site plan and stormwater pollution prevention plan approval. As a result of the proposed building addition, the dual drive-thru Board approved on November 18, 2019, which was not built, has shifted to the rear of the site and eliminated the existing parking spaces on the southern property line. The November 2019 site plan approval included 52 parking spaces.

The Planning Board feels that since the nature of the building addition is for storage and not adding additional seating to the restaurant, it will not create an increased demand for parking on the site that would justify the required 62 parking spaces and that the site will operate sufficiently with 4 less parking spaces that was approved in 2019. The Board also notes the drive-thru service has increased considerably and therefore the 2nd drive-thru lane is undoubtedly more important than having these 4 additional parking spaces on the site.

Mr. Gregory asked Mr. Pernick to show the site plan and discuss the plans.

Tiago Duarte, Project Engineer, showed the site plan and discussed the layout of the property.

Mr. Gregory asked where are they in the Planning Board process?

Mr. Duarte said we received approval.

Mr. Fahey asked if the dumpster location changed?

Mr. Duarte said the dumpster stays the same. As part of the Planning board process, they did asked that access to the rear of the property be added in the event emergency access vehicles needs to get in from the rear road.

Mr. Fahey asked if customers will be able to egress from the property onto Old Crompond?

Mr. Duarte said no, it is gated and locked with a fire department approved device.

Mr. Meisterich asked if they did not build the addition, would we be here for a variance for parking.

Mr. Duarte said we would not, no.

Mr. Meisterich asked if the counters and everything will be in the same place, just more utility type space behind the counter?

Mr. Duarte said correct, it is not public area that is being added.

Mr. Meisterich said what he was getting at is you are not adding public area, but you are moving the current non public area that more seating where the counters already are.

Mr. Duarte said no, everything customer area service related, the bathrooms, that is all remaining unchanged.

Mr. Tripodi asked if the seat count is going from 72 to 60?

Mr. Duarte said no, under existing conditions it is about 77 seats and what we find on the remodels is that the seat number decreases due to the special requirements of the new building codes.

Mr. Fahey asked if there is a projected increase in customers coming in, know it is hard to gage, but is it their anticipation?

Mr. Duarte said no, have done a number of these and the intent is always to better serve the existing customer base, it is not a new draw.

Mr. Meisterich said in some of the memos that was read, heard the number 52 spaces and losing 4, but the agenda says 62 spaces. Is it 52 will be needed and we are at 48, or it is 62 needed and we are at 48?

Ms. Steinberg said she was referring to the Planning Board 2019 approval, which the Planning Board have the ability to reduce parking without a variance. This is too great of a percentage reduction for the Planning Board to do alone.

Mr. Meisterich asked, currently does any one have idea how many spaces are there at McDonald's?

Mr. Duarte said under current conditions, there is 52 spaces and the proposed with the addition and the drive-thru improvement it will go down to 48 spaces. To add on to that, we did do a parking analysis for the site and what is industry standards for fast food restaurant as stipulated by the Institute of Transportation Engineers is usually 1 space per 2 seats. So in this case the requirement is much more aggressive, the Town's requirement is typically used for restaurants.

Mr. Fahey said, the foot traffic obviously has fallen off and the need for parking, most people are going through the drive-thru service, am assuming at this stage with the Covid going on, has that been factored in.

Mr. Duarte said correct, and the addition of the side by side drive-thru lanes further just in helping that, cause what you will find with the single order point traffic will back up and stack on site.

Mr. Fahey asked has the amount of people inside diminish, the people that sit at the table?

Mr. Duarte said yes, do not know specifically for this store, but in general they have shut down a lot of the indoor dining, so they are just fully drive-thru at this point.

Chairman Fine said hopefully if the work come back to normal, you are only taking about losing 4 spots.

Chairman Fine asked have you taken into consideration the comments in the memo from the County Planning Department.

Mr. Duarte said he did not receive a copy of it, but it does sound familiar to what they issued for the initial application which was through the Planning Board, because for stormwater for example, we did add an inlet filter, so there is one (1) existing one on site. In coordination with the Engineer, we agreed to add a filter basically to improve the water quality that was being generated by the site before it discharge into the Hunter Brook. We can review the rest of those as well, largely believe a lot of those have been addressed as part of the original application.

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 48 parking spaces

(including 3 ada) where a minimum of 62 spaces are required as per section 300-182 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.

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

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant.

There is an existing two (2) story dwelling with a two (2) story addition to the right side of the house. It is going to be two (2) car garage on the lower level and a loft space above, which will be open, whether it be a weight room or something like that, unheated, unfinished and it is going to be accessed from the existing garage, so it is not going to be habitable space or anything like that. It is going to increase the width of the house, not adding any other point such as building area, etc. Pretty straight forward in terms of the look of the house, we are in a flood plain so the construction is going to take that into consideration when we get to the construction drawings.

Chairman Fine said and the new roof line is going to be higher than the existing roof line, correct.

Mr. Tetro said correct.

Mr. Fahey asked what is the ceiling height inside of the loft area?

Mr. Tetro said it is going to be 8' or maybe it will be 7', have to look at the file.

Mr. Fahey asked if it is going to be heated space?

Mr. Tetro said no, it is going to be unheated, unfinished, un-insulated. It is going to be connected to the existing garage.

Mr. Fahey said things like this could become living space. If I was moving into a house like this and I have that area, I would be looking to utilize that as a living space. Is there any way to prevent that, lower that roof line down to a 6' high or make sure you could use it for storage and you could not live in it. Do not know how that impact the plans.

Mr. Tetro said no, we would end up head room issues with the stairs coming into the addition.

Mr. Tetro showed the plans showing the existing garage. He said the cars pull in from the side into the garage. The addition that is coming on we are going to be entering the garage from the front. The stair that is getting us into the loft space above is within the existing garage which is remaining unfinished and it is going to be open to the proposed garage, so it will all be one big unheated space. The loft above is just a continuation of that space and there is really no way that we could make it a finished space without jumping through hoops with fire code and second means of egress and all that sort of stuff.

Chairman Fine asked if it is an open loft not a full finished floor.

Mr. Tetro asked what do you mean by open loft.

Chairman Fine said when you say loft you are referring to something that basically has three (3) walls not four (4), so it does not open into another area.

Mr. Tetro said he is calling it a loft because he is not too sure what to call a space above a garage besides storage. Think it is a technicality in terms of the word that I am using, it is just a continuation of the unfinished space of the existing garage above.

Chairman Fine said it is attic space above the garage.

Mr. Tetro said correct.

Mr. Meisterich said why do they want to build this space above the garage, is it for storage. Why they would not want it living space, they did not think a variance would get approved?

Mr. Tetro said they are not looking for the living space, they are looking for a place to put maybe like a workout bench, some storage up there. They want to keep the area open for additional things like a motorcycle down below. They want to move the stuff that is in the lower garage up there so they can

utilize the ground floor garage space for garage stuff, lawn equipment, etc.

Mr. Fahey asked if it is an existing garage or a whole new garage?

Mr. Tetro said it will be a whole new two (2) garage that is going to maintain it access to the existing garage without cutting it off in terms of doors, there is going to be some wall space, but not putting doors in, not finishing the existing garage. It is all going to be unfinished, unheated space.

Memo from the Assistant Building Inspector dated, February 19, 2021 states:

I have inspected the property on February 16, 2021 and have no objections in granting relief. The applicant will need a building permit and certificate of occupancy for this work. If the existing shed, in the area of the addition, is relocated and not removed, it will also need a building permit if 100s.f. or larger.

Chairman Fine asked what are the plans for the existing shed?

Mr. Tetro said it would have to be relocated or taken down, it cannot be left in that spot because the addition just going to consume it.

Mr. Meisterich said right now there is a one (1) car garage that runs parallel to the long end of the house where you pull your cars are, so you are going to subsume that and there is only going to be two (2) garage doors ultimately on this.

Mr. Tetro said currently there is two (2) garage doors coming into the side of the existing garage, those two (2) garage doors are going to move to the front of the addition. You can look at it saying it is a four (4) car garage but it would not be that, cannot utilize both garages for cars, not taking over the existing garage with this addition, just adding on to it.

Mr. Tetro showed a photo of house showing where the existing garage doors are.

Mr. Tripodi asked if there is any plans to use the existing garage, and how would it be used?

Mr. Tetro said it is going to be used for storage, whether be a motorcycle or kayaks or that sort of things. It is going to be just more storage space.

The Board and Mr. Tetro discussed the loft space potentially becoming living space.

Mr. Meisterich asked with respect to the side, there is a neighbor on the side where you are impinging into the setback, any idea how far the neighboring structure is to the property line?

Mr. Tetro said currently approximately 34' from the corner of the house to the property line, would say 24' give or take, still looking at being over 30' away from the house to the addition.

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 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. 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.

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

Mailings and sign certification in order.

Peder Scott, Architect/Engineer, representing the applicant. The application before is for a special use permit for a home office under Section 300-76 and basically we are conforming with regulation. We have less than three (3) people in the home office. The square footage of the office relative to that of the main house is 18.6%, have provided parking and a court yard for the particular project and we are fully compliant. The Planning Board sent a letter to you recommending that we have 18

trips or less per day for the facility which pertains to the home office . With the business assistant and a periodic bookkeeper that is 4 trips per day, that would give us 14 trips per day for a guest and that is acceptable to us to keep it under criteria of 18 trips per day per Section 300-76.

Chairman Fine asked what type of office is it?

Mr. Scott said his client is financially involved with the Tesla Corporation. He is not a employee but he represents a group of Tesla as an outside consultant. This is a proto typical building for a Tesla product line. The house will incorporate every component you can think of from the Tesla Corporation for the house. We are a major power supplier, using a proprietary Tesla heating system, using proprietary window systems it is a first of a prototype that we are going to provide throughout the Metropolitan area, one in Connecticut, New Jersey, Rhode Island, this is the first one. My client will live in the home but again periodically there will be some guest, invitation only, which will visit the site to look at what the future of what Tesla can provide.

Chairman Fine said it is a model home basically.

Mr. Scott said yes it is.

Mr. Tripodi asked how much traffic do you anticipate.

Mr. Scott said currently we are only looking at 5 groups of people a month. This will be one of may model homes for Tesla and we are the first one, but as we build more of the identical designs we will basically spread out the demand through various locations in the eastern seaboard. The only one of these is in California right now.

Chairman Fine asked if he submitted a parking plan to the Planning Board.

Mr. Scott said it is on the site plan. He showed the site plan of what the house looks like and the layout of the house.

Memo from the Assistant Building Inspector dated, February 19, 2021 states:

This application is for a Tesla show-house be allowed to have a special use permit for a home office. Section 300-71(B)(3) limits the number of employees to no more than 3. It is represented that 3 employees will staff the office: the owner (resident) of the home, a business assistant and a periodic bookkeeper.

Under Section 300.76(A), this use applies to an existing residential structure. This dwelling is not built yet and is still before the Planning Board.

Chairman Fine asked what stage are you in with the Planning Board?

Mr. Scott said the Planning Board has kept a public hearing only for the fact of tree, mitigation plan. The project was approved, the subdivision was approved with a smaller house, and we were asked to amend that site plan. We were asked to augment the site plan at the last meeting and was asked to put in buffers, that is to put more visual buffers in place for the proposed house site. Submitted a plan with the necessary buffering.

Mr. Scott showed the plans for the buffering.

Memo from the Planning Board dated, February 25, 2021 states:

The Planning Board is currently reviewing an amended site plan for this subdivision lot as a result of the applicant proposing a larger home that was previously approved as part of the Stahmer Subdivision in 2019. The current request to the Planning Board includes review of the amended site improvement plan, stormwater permit, and tree permit, as well as a special permit for a large-scale solar power generation system for the Tesla solar roof (with battery) storage for the panels to be permitted by the building department). At the same time, the applicant expressed that the professional office use is a critical part of the project, and therefore the Planning Department recommends the applicant apply to the Zoning Board prior to home being built.

The requested special permit for a professional office use is similar to any other request in that intensity of the office use raises concerns regarding disturbance to the residential characteristics and nature of the neighborhood in which they are located. The Planning Board has the same concerns regarding this professional office use request, in particular in this neighborhood where the roads are

of substandard width and general condition. Town Code Section 300-76(B)(8) does include a limitation of 16 vehicular business trips per day and the applicant indicated to the Planning Board that they estimated the trips generated would be less than this and closer to 10 trips per day. Therefore, the Planning Board recommends the Zoning Board consider limiting the vehicular business trips per day to less than 16 trips. In addition, the applicant is proposing buffer plantings to screen the home and professional office use from the neighboring residential properties and the Planning Board will include this landscape plan in their amended approvals.

Whether a special permit for professional office use in a residence can be granted prior to the construction of the residence should be evaluated by the Town Attorney, however the Planning Board does see the applicant's point of view that they do not intend to construct the home at all without the professional office use being allowed. If allowed, the Planning Board has no objection to this permit being issued with the condition that the office be constructed substantially to the submitted plans.

Chairman Fine said the question based on that is to our attorney, Adam Rodriguez, about whether or not you can grant a permit for a home office for a structure that is not built yet.

Mr. Rodriguez said he would like to consider this a bit. It is the first time he is seeing the memo.

Mr. Tripodi said he has some concerns about this, it is not we are adding a home office to a residence, it is like we are adding a residence to a home office. I think the commercial activity there is the main purpose of the structure as opposed to the residence. It is like camouflaging an office with a residence.

Chairman Fine said one of his concerns is operating a model home versus what a home office is.

Mr. Scott said you allow offices, professional office. There was a dentist that was approved in town and that is an occupation that utilizes customers and appointments, and again a professional office such as architect or engineer could be in these zones and they would have clients coming in for particular review of project. The technology that is being offered could be viewed strictly from the area of the office if need be, but normally when you have something which has these roof shingles and such, people want to go somewhere where they could actually see it in use.

Chairman Fine said one of the ways it is different is a home office use such as a dentist or accountant or something like that, is people do not say to other people let's go look at my dentist's office, let's go look at my accountant office, such a nice building. You are going to draw people who just want to see the structure and that you cannot control who is entering the property, and the roads in that area are not built to accommodate that kind of traffic.

Mr. Tripodi said it is more of a showroom more than an office, that is the concern.

Mr. Scott said no one could come there without an appointment.

Chairman Fine said they could drive past there without an appointment to see what the building looks like.

Mr. Scott said we would have a restricted entrance, if we have to put a gate as part of the condition of this approval we do so to prevent gawkers.

Mr. Fahey said the way you are proposing this right now you cannot see it from the road.

Mr. Scott said we did that un-purpose. We want it restricted because we worked on other facilities of similar nature and we want to restrict it. In that manner, people would come there when they are invited to come, and it would be coordinated, especially because of Covid nature of our society right now. This is a concise application of a global sort of home site which is the direction Tesla wants to take these product lines.

Mr. Scott discussed the plans further.

Mr. Rodriguez said he has no objections to the permit being granted because the construction has not been constructed.

Chairman Fine asked if there are any comments from anyone.

Jed Khandji said he listened very carefully and it seems that this is a commercial use. There is so much attributed to this that sounds on face value that they are commercial. It is a commercial showroom for Tesla, so having that in a residential is kind of strange. Know the investment is large

and it is exclusivity, but would ask the Board to ask themselves that question why is it not in a commercial zone.

Chairman Fine said he is building it as a residential structure to live there.

Mr. Khandji said it is a home office for residence but based on the description it is certainly a commercial use.

Chairman Fine said that is the comment he made previously is whether or not a showroom qualifies as a home office.

Mr. Fahey asked once you build this, if this goes through, is this guy going to live there forever or is this property going to be sold. Is this basically a test center or is it going to be an actual residence.

Mr. Scott said he is going to live there forever, he is committed to this, he lives in White Plains.

Worked quite a while to find this site, we wanted a recently subdivided parcel of property, wanted multiple lots, wanted room to work in.

Charlie Luceno, live across from the proposed applicant. In fact his living room will face the proposed driveway. Certainly do not oppose to new technology and green energy, but as Board member has pointed out it is the increase traffic in a very small road area. Very concerned about the traffic, it is great to have an estimate that it might be this many, but presumably Tesla is not going to put this house under the bushel, they want people to know about it there is not one for another 3000 miles. The other statement that do not worry we will put up a gate, so that means all the gawkers just drive around the neighborhood trying to get in. Think that it is not the right neighborhood for that, the house might be beautiful but it is a showroom. As the Chairman pointed out, if you read 300-76 it does not meet the qualifications it is not an architect, artist, chiropractor, it is a showroom, it does not meet what a professional office is supposed to be. Quite frankly I think it would disturb the character of the neighborhood and the residential quality. I think it is a admirable project but not in a neighborhood that has tiny streets because do not think the traffic patterns that they envisioned are the traffic patterns that are the reality of the situation. Certainly know myself and some other neighbors who oppose not to the house but oppose to an office that is a commercial enterprise, because that really what it is.

Chairman Fine said that basically what my concern is with the application, is what we just discussed as well is not quite certain that a model home or a showroom qualifies as a home office under the meaning of the code. The applicant is saying the owner is going to be doing business there it is his office, it is also being used for another purpose and that is a showroom, so you are adding another commercial use into that spot. Do not think it was envisioned by that section of the code. Also, it was brought up by the Planning Board and by the gentleman that just spoke is the road that it is on, although the parcel is pretty big, maybe an ideal parcel for this house, the road that it sits on might not be ideal for the kind of traffic that it may generate not only by people coming and going to see the house who are making appointments to see it but by also people may have heard that there is a house there and not necessarily realize that you cannot see it from the road but are going to look anyway. Those are mine concern for this application.

Mr. Tripodi said with regard to house, we are looking at four (4) garages, why do you need four (4) garages if it is not going to be a showroom.

Mr. Scott said most project of this scale we are putting more than two (2) garages, it is a 6400 sq.ft. house. One of the garage space will be a miscellaneous vehicle and the rest of them will be cars owned by the owner.

Chairman Fine asked Mr. Rodriguez if there is an issue with what we are talking about a show house being used as a home office use, is it envisioned by that section of the code.

Mr. Rodriguez said his reaction to that is there is an issue, they do not seem to line up in his view. Can certainly spend some time and do some research to see if there is something he is missing, but do not see it.

Chairman Fine said that is a major concern of mine. Home office, yes you have three (3) employees, we do that in a lot of circumstances people work out of their homes, but this application specifically is to use it as a showroom or show house and that is my concern is that section of the code permits

that.

Mr. Meisterich said my opinion on it a little bit is, it is not very different than an architect, because it is not a showroom it is a house, the house has interesting features to show off. It is not like you have equipment there you are trying to sell it is the house itself. Lets say an architect had a home office and built a really nice house and part of the reason to do that is you have clients over to see how great of a house the architect could design, do not see it as dramatically different in that scenario, because it is just examples, less than your product on a floor, so to speak. I would not necessarily call it a commercial application because a person is living there, it is a house. You could not put it in a commercial zone and live in it, that would be a violation of the commercial zone. I guess I am less oppose to some of these things than some of the other members.

Mr. Gregory asked we are talking about for example, the amount of people that are going to be coming to see this, can you kind of run us through typically what happens when an individual comes in and looks at the site, because I am looking at your application and basically you are saying, for example, visitors are going to review Tesla products during normal business hours between 9-5, do not know whether you are talking about Monday-Friday only.

Mr. Scott said it is Monday-Friday only.

Mr. Gregory said and then is says less than 5 people per month.

Mr. Scott said yes, we are pre-qualifying people, and this roof system that we are utilizing is best served by building a new house for them.

Mr. Gregory said your application is indicating less than 5 people a month are going to be coming to visit, which mean essentially that you may have half a trip, one (1) car entering the property for the purpose of this once every couple of days, is that true.

Mr. Scott said yes, that is true.

Chairman Fine asked so what is the purpose then for having the 14 visits a day?

Mr. Scott said actually it can only be 12 because 4 of the trips are being utilize by the business assistant and a periodic bookkeeper, that would be 4 trips just for those people to arrive. Out of those 4 trips from the 16 permitted by the code, ended up by 12 trips which is 6 cars coming in a day.

Mr. Gregory said but we are talking about less than 5 people per month.

Mr. Meisterich said I think what he is saying is the code allows 16 and that was in the memo, he is estimating on the ground 5 trips a month. Think somewhere between 5 trips a month and 16 a day is something we could put a limitation on.

Chairman Fine said it is 5 visits a month for people to see the house, the 12 trips he is taking about is for the employees who works there, so it is not just 5 people over the course of a month.

Mr. Scott said it is actually 4 trips, a trip is one person arriving and one person leaving, 2 employees that is 4 trips right there.

Mr. Meisterich said the 12 was to fill in the space left by the code allowance so if I am the applicant why not consider applying for the full amount but I think if we are the Board we can say that is not going to be fitting the character of the neighborhood or something.

Mr. Scott said we are willing to reduce the code count. When I was with the Planning Board, I mentioned around 10 trips per day would be acceptable and why I am hedging on a little more than a minimal count is sometimes 2 people same product show up in different cars, and there might be an architect coming. We would accept a lower number, could restrict that with a gate, we can create some sort of mechanism that would insure that we are not over burdening the lot.

Mr. Fahey said it is not so much the lot it is the concern about the road, it is the traffic on the road..

Chairman Fine said the lot itself is ideal, but it is where it is located is the problem.

Mr. Scott said there is not many houses on Jerome Road as it is. If you look at trip generation counts most residential homes create 2 trips a day, and at most there is probably 6 houses on Jerome.

Mr. Fahey said the concern comes back to if this becomes a draw, this is a novel thing to see.

Chairman Fine said he would like to get a legal opinion from counsel.

Mara Zedins, have resided at the same house in Yorktown Heights on Hallocks Mill Road, which has

become a tremendous through traffic route, but that is beside the point. Do not like the fact that this big corporation Tesla wants to put in a commercial property in a residential zone. Have seen it happen all over Yorktown Heights where I have lived for 50 years, and if you talk about the office use, just take a look at some of the office use permits. There are office use permits that all of a sudden gotten 1, 2 or other occupants office uses in their homes. You could look at a piece of property on Route 202 between Route 118, 35 and Hallocks Mill Road and tell me if 1 office use warrants 3 office being in there. That has changed a lot over time in the community. Think this is a false claim by the Tesla Corporation to create a commercial affair in a residential zone. Does he want to build a model house, he can certainly do that in one of our parking lots that is totally empty and put trees around it and say this is a model house that I can build for you. Do not think that we should even engage in providing a home office, it is not a home office, that person will definitely not be a resident there year round or participate in the community. A 4 car garage, wow, 4 Teslas in the garage. Just do not feel that the Zoning Board should give them a compass to of creating a home office situation, it is not a home office.

John Schroeder said that I am assuming that since you have made the claim that the Board members are making individual site visits, I hope you all had a chance to visit Jerome Road. The point which the driveway come out onto Jerome Road is approximately 11' wide, the condition of it as I said to the Planning Board on Monday, more resembles the new pictures from Mars than it does a street. The road is in such horrible shape, the sides have collapsed. It never was built for any specific kind of heavy use. In addition to that, there is no place to turn around on Jerome Road, it just stops, it dead ends and stop. There is 1 driveway at the end of Jerome Road and would hate to see my neighbor become the turnaround for people who happen to be driving by because they think it might be a good thing to go look at. We have had issues on the road with respect to traffic. We have all made our way around without any serious incidents, but we have also have as many as 3 buses come to pick up kids on this road during the course of the day, and that is twice a day. My point is that the road condition really does speak to the issue here, it cannot take any more heavy traffic. Cannot even imagine what it would be like when construction equipment comes in here, some of that equipment may just completely engulf the road.

Mr. Fahey said if it was not for the fact that we are talking about building this test house, if he was going to build a private home, wouldn't we have the same issues with construction vehicles.

Mr. Schroeder said he is not talking so much about the construction issues, we know that that is going to happen, we knew that when the Stahmer subdivision was approved, but what we are talking about is that will end, and then if this operation continues it will be a continuation of the traffic and for us it is not acceptable.

Mr. Scott said if he may just bring up some items. We could very easily restrict the access in the house to he 1200 sq.ft. office space, it is segmented as it is and we could easily restrict connectivity of the house from the office to the rest of the facility itself.

Chairman Fine said what you do internally is something we really cannot control and examine on a regular basis. My main concern is whether or not, even before we move, whether this fits into the code.

Mr. Lachterman asked Peder, you said there was 1 house in California, is there others in California or just 1?

Mr. Scott said there are several of various components integrated in California.

Mr Lachterman asked how many visitors per day?

Mr. Scott said they are very limited, can get specific data on that. Again it is by appointment only, you have to qualify, it is very limited because of the clientele that would basically utilize this technology.

Mr. Lachterman asked how many houses are currently on that road?

Mr. Scott said at most would say there is 6 but maybe there is more. One thing I can interject is my client owns both current openings on Jerome which extends to the south, also own a strip of land at the end to Jerome, and as a condition we will be willing to improve that to mitigate that concern to be

able to turn cars around.

Mr. Tripodi asked the qualification process, what factors do you evaluate?

Mr. Scott said this system is really apropos to new construction, it is really difficult to be competitive on putting on an existing home the roof system because of all the components that have to go into the roof itself, the wiring, and running the power lines to batteries. We look at facilities that is under construction, we look at various houses they have to face the right direction, they have to face south or west.

Mr. Tripodi said what he is talking about is the people that get invited, how do you evaluate them, what qualifications do they have to have.

Mr. Scott said we evaluate what their proposed house is going to be, we evaluate what the orientation is going to be and where it is located, and many people do not qualify because you cannot have a house like this when there are trees around the perimeter, you have to be facing the right direction. There is a whole checklist we go through and very few qualify. This is owned by a private individual and but there are criteria by Tesla.

Mr. Fahey asked are the houses that Tesla is proposing, this one is 6400 sq.ft., is that the typical size of these homes?

Mr. Scott said they need a minimum footprint between 3500-4000 sq.ft., they need that much roof because we are only getting so much yield from the roof shingles. When everyone wants to do a Tesla roof system, but if you are going to spend \$80,000.00 just on a roof, you are going to make sure that you are going to generate the proper requirements for energy and a lot of people do not qualify. That is why the people visiting is so low because most houses do not meet the threshold to make this function.

Chairman Fine said still want to hear from our Town Attorney when he is able to do so on the question on whether or not this qualifies as home office use and do not think this is going to happen at tonight meeting.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was adjourned so Special Counsel can have a chance to review this matter and advise if it fits this section of the code.

BRADY #4/21 This is an application for a proposed front and rear addition with
Property Address: the front addition having a setback of 22.5' where a minimum of
1540 Pine Brook Road 30' is required as per 300-21 and the Bulk requirements set forth
Section 48.11, Block 1, Lot 16 for this sub division. This property is located in a R1-20 zone.

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant. Looking at two (2) residential property on Pine Brook Road, the owner is proposing an addition in the back of the house, but our zoning variance is for a front portico as part of this project. It is 30' to the front and we are looking at 22.5' proposed. Chairman Fine asked if he has the plans for the portico.

Mr. Tetro said yes. He showed the site plan and discussed the layout of the house and where the proposed portico will be.

Memo from the Assistant Building Assistant dated, February 19, 2021 states:

I have inspected the property on February 16, 2021 and have no objections in granting relief. The applicant will need a building permit and certificate for this work.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted 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. 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.

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
Property Address:
3206 Princeton Dr.
Section 16.19, Block 1, Lot 23 R1-20 zone.

Mailings and sign certification in order.

Betsy and Guido Cicchetti present for the meeting.

Chairman Fine asked this is a new deck, what happened to the old deck, or is this for an additional deck?

Mr. Cicchetti said there was no deck at all.

Chairman Fine asked what part of the hose is this going on?

Mr. Cicchetti said the left side of the house.

Chairman Fine asked if he submitted any drawings with it?

Mr. Cicchetti said we did, drawings, site plan, plot plan. The Building Department was here on site.

Memo from the Assistant Building Inspector dated, February 19, 2021 states:

I have no objections the property on February 16, 2021 and have no objections in granting relief.

The applicant will need a building permit and certificate of occupancy for this work.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted 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. With the stipulation that it pertains only to the requested variance and not the remainder of the property line, and the applicant build the new deck in substantial conformity to the plans submitted.

Recording Secretary, Glenda Daly

Meeting adjourned at 8:39pm

Happy Zoning!