

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

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, March 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
Alternate: Howard Orneck

Also present is Robyn Steinberg, Town Planner/Host, John Landi, Building Inspector, 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 April 22, 2021. Mailings are to be sent from March 29th to April 7, 2021.

NEW BUSINESS

CATALIOTI #15/21 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
1543 Hanover St.
Section 48.11, Block 3, Lot 20

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this items will be handled administratively.

TAMBURELLO #9/21 This is an application for a special use permit for a new accessory apartment.
Property Address:
3061 Oak St.
Section 25.12, Block 2, Lot 5

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 April 22nd, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

SINDACO #14/21 This is an application for a renewal of a special use permit to operate a childcare center.
Property Address:
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 April 22nd, 2021, and referred to the Building Inspector, Planning Department and the Fire Marshall. The Board alkso asked for proof of licensure. Site Visits will be done by the Board members separately.

FLASZ #8/21 This is an application for a proposed addition with a side yard setback of 12.07' where a minimum of 15' is required and a combined side yard setback of 36.8' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.
Property Address:
2796 Sutton St.
Section 26.15, Block 55, Lot 61

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 April 22nd, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

LITTLE RED SCHOOL HOUSE #13/21 This is an application to allow 2 free standing signs where only 1 is permitted and allow a new sign for a school with an area of 15s.f. where a maximum of 4s.f. is permitted as per section 300-54(c) and Appendix C of the Town Zoning Code. This property is located in a R1-20 zone.
Property Address:
2300 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 April 22nd, 2021, and referred to the Building Inspector and ABACA. Site Visits will be done by the Board members separately.

YATES #11/21 This is an application to allow an existing Structure with a side yard setback of 4.1' where a minimum of 12' is required and a front yard setback of 27.5' where a minimum of 30' is required as per section 300-21 and Appendix A of the Town zoning code. This property is located in a R1-10 zone.
Property Address:
3408 Heyward St.
Section 15.16, Block 3, Lot 52

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 April 22nd, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

SCHRADE #12/21 This is an application for a proposed addition with a combined side yard setback of 29.6' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R 1-20 zone.
Property Address:
257 Granite Springs Rd.
Section 27.10, Block 3, Lot 57

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 April 22nd, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

ALEK TRIS LLC #10/21 This is an application to remove the condition in a previous ZBA decision that prohibits the subdivision of this lot. If this is removed, a proposed 3-lot subdivision would be applied for. This property is located in a R1-10 zone.
Property Address:
1075 East Main St.
Section 16.10, Block 3, Lot 26

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 April 22nd, 2021, and

referred to the Building Inspector and Planning Board. The Board also requested the building department file, prior decisions and the filed subdivision map. Site Visits will be done by the Board members separately.

CINGULAR WIRELESS #16/21 This is an application for a special use permit to modify an existing AT&T telecommunication facility by replacing 3 existing antennas and indoor equipment.
Property Address:
340 Illington Rd.
Section 69.07, Block 1, Lot 8

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 April 22nd, 2021, and referred to the Building Inspector.

CONTINUED PUBLIC HEARINGS

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: This property is located in a R1-10 zone.
1681 Summit St.
Section 48.07, Block 2, Lot 9

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 of the Town Code. This property is in a R1-80 zone.
Property Address: 959
Hanover St.
Section 59.07, Block 1, Lot 4

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

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

Thomas Miressi present for the meeting.

Peder Scott, Engineer, representing the applicant.

Chairman Fine said last month we had some issues that needed addressing. One of them that we were discussing was whether or not a showroom qualifies as a home office. The Chairman asked if the applicant had changed the application, in that is still a home office application but the applicant is not seeking to use it as a showroom because you are not going to be bringing anybody in to actually view it for that purpose. Any such viewing will be strictly virtual.

Mr. Miressi said that is correct, there will be no in person showings. Everything will be done virtually. Chairman Fine said there was a letter from Mr. Miressi dated, March 3rd, 2021 which is submitted to the file.

Memo dated March 25, 2020 signed by many of the residents on Jerome Road area in opposition to the application.

Charlie Luceno, neighbor, said he was here last time and stated many things that the Board made

reference to. We now understand that Mr. Miressi has changed it somewhat as you just indicated. The problem is that I have said in my statement, the genie is out of the bottle. Following an interview that was given by Mr. Miressi and his Engineer in the Yorktown News, touting the house and what it was going to be and the new technology. In the next few days there were at least 30-40 cars going up Jerome Road looking for the house. The problem is it is already out there, and Mr. Miressi in the article talks about he wants his privacy and no one can see the house based on the shrubbery he was going to put in. We the neighbors do not have that same luxury, we did not build our homes in such a way, on these inadequate roads that we would not have the "lookie-loos" people who are naturally curious. The technology I think is really a wonderful thing, it is great. We do need to look at this, not hidden away. We need it to be somewhere in a commercial zone where people can see what it is. If somebody is going to spend hundreds of thousands of dollars I would imagine I would want to see what it is. What we really sort of believe here is that this is not a home office being requested, the entire house as the engineer noted in the article, it is integrated, it is the house that is the subject, it is a commercial enterprise. Mr. Miressi indicated he is an investor in this type of energy, I think it is a good thing he wants to do, it is just the location is a poor choice, and the fact that this is really a use variance that is what it should have been styled as and what it should have been presented to the Board, it is not a home office that has less than 25%, it is the entire building and on that basis we strongly believe that despite the indication that there is not going to be people who actually come to the property none the less, as the movie quote goes "if you build it, they will come", and they have already come and they come looking for it and that is not a use that should be permitted in this neighborhood. I attached photos that shows the school but trying to turn around, it just does not work there. Again, I applaud Mr. Miressi for what he wants to do, it is just the choice of the location. That is essentially our opposition.

Chairman Fine said I understand what you are saying, but speaking practically about it though, for argument sake, if we deny it and say no home office, you cannot have the home office permit, which is all they applied for. The house is only in front of us to approve or not to approve the home office permit, we are not here to approve the house itself. So for argument sake, if we deny the home office use permit he could still build the house anyway he wants, as long as it fits code. As far as people coming to see it, that component may still be there whether we approve it or not, so that you are stuck with either way.

Mr. Fahey said yes it was in the papers, yes it is a Tesla house, everybody gets excited with that, but with the passage of time it is not in the paper, no one is paying attention to it, you are not going to see it, you cannot see it from the road, there is no point to going there so there is no reason for why people would want to see that. The other thing that they mentioned is the improvement that they were going to make to Jerome Road are significant, in that the turnaround for buses right now, we have been told that it is hard for the buses to turn around, it is very hard to do. I think from a practical perspective if they are good neighbors, #1 you are not going to see it. #2 they are going to improve the turn around for the people that do live there, so it is a matter of perspective as to how you are looking at it. I do not disagree with your concerns, but I think it is premature, do not think it would be long term.

Chairman Fine said I know what you are saying about people looking dies down, the problem is that the less they know you cannot see it from the road, they are going to come and look for it anyway, which is one of the problems. People came to look for it before it is even built because they heard about it in the newspaper. The other concern I have, even if the applicant puts a turn around point for buses, and we are kind of moving into a different area here, but it is a private road if he does that it is his property and then you have a different liability issue when you are allowing the public to use his private road for public access. Who is going to maintain it, who is going to insure it. It is a private road and no one has permission, so to speak, to use it. If you purposely put it in as a turn around and it is your personal road, you are liable for it, and then you are carrying liability problems that could arise from it. It may be no problem but we live in a very litigious world.

Chairman Fine said I am just point out any way you go with it you have another problem that could

crop up, you are not dealing with a public road that you could just widen and still have it as a public road. Anything that the applicant does is great and I applaud him for it, but there is liability attached to it that is not the town's, it is his own. So it is a question of whether or not even a bus company, if they know it is a private road is going to start using it to turn around on.

Mr. Luceno said presumably Mr. Miressi and the reason he wants the technology not only for his own enjoyment but is is a commercial application as it is indicated in the article, that people are going to learn about it and they want to sell it. I assume that is ultimately the goal, not the house but the technology and so it is going to attract visitors to their site. I assume again, and I do not know, is the site going to say it is on Jerome Road, Yorktown Heights, NY, I do not know that. Once it does that, we all know once it is on the internet everyone know it is there, and they come to see, assuming it is built even if they do not know they cannot see it.

Chairman Fine said that goes back to the point I was saying before, even if we say you cannot have the home office, he could still build the house any way, Tesla technology or not.

Mr. Luceno said I agree, but the question is can he operate a commercial business that is the house.

Mr. Fahey asked can he build a test site, if he build the house as a test site?

Chairman Fine said if it is meeting the code requirements of a residential home, there is nothing to stop him.

Mr. Fahey said there is nothing that is going to stop that exactly, and if he is going to use the data that he garners. He is using a 6400 sq.ft. for a particular size roof and a style of roof that they are making, and different application with the windows and what not. Am assuming at this point it is not necessarily marketable, it is more about the data they are going to access for the experiment living in the east. That is my interpretation. I do not really see how they can market this product without doing their testing. How long is the testing going to take, probably five (5) years at minimum before you really know it is a viable application for use in the future. If it is not advertise, if it is not in the papers they are not going to come at it.

Mr. Luceno said he understands that, but again my concern, and I do not know if we are addressing that. Yes, he can absolutely build the house, it is what he does with it. If he is going to market it as the technology and that is out there, and that it is indicated that this is a house that is on Jerome Road, in Yorktown Heights, NY, that is the worry.

Mr. Miressi said no, that is not what I am doing at all. Basically to sum it up really quickly, this is my own personal home, it is not a "Tesla" house, the only thing Tesla about it the house is that it has a solar roof on it. That is pretty much it. They have other technology coming in the future later on that I will like to integrate hopefully coming down the line, but as for it being a Tesla house it is just the roof and as far as my home business, I primarily operate a holding fund, I pretty much day trade and stocks like that. I deal with a lot of paperwork, that home office is going to be a giant empty storage space, am going to be to be using it for papers, and a desk and couple of TVs so I can watch four (4) different stock market channels. That is the office of my house. I have two (2) assistants that I work with that deliver mail for me back and forth, the deliver boxes maybe one a week, twice a week. That is about it, I am not planning on having people come to the house. As the house is being built it is going to be filmed, it is going to be documented from start to finish and PWS Engineering is going to be going forward and looking into marketing either building a separate house as another whole unit and adding in different parts of aspects of technology. If you want to add in a solar roof, if you want to add in an electric floor, there is all different customizable aspects. Basically this house is a proof of concept, it is to see if we can do it. If I can build it under a certain budget and it is scalable, and we are going to film it, then Mr. Scott and myself are going to of course go on down the road hopefully in a couple of years from now and the technology gets further and further along and bring this to other people. But as of right now this a pure experimental proof of concept, my own personal home am building for myself, building myself a house and putting a solar room on it.

Mr. Fahey asked if you are doing anything with the windows?

Mr. Misserri said the windows are basically one glass side, it is all glass in the back of the house.

Chairman Fine said the other concern he has is dealing with the code section 300-76. The very first

sentence of this section says, the intent of this section is to allow for the use of an existing residential structure for a professional office. So my concern is the application to us is premature because the structure is not built yet, and the code specifically says existing structure, and if that be the case then isn't the applicant asking us to vary what the code says, in which case you will have to file an application for a variance not only a permit.

Peder Scott said I went over that with the Building Department and what we discussed was the fact that because it is paramount to have an office in this building we have to resolve that issue because if it went the route of we apply later on after a very large investment of funds and it was denied, it would take away a major right of my client.

Chairman Fine said I understand that completely, I do not disagree that you need to know these things before you invest the money, all am saying is if that is the case, then it should also in my mind have been an application for a special use permit as well as an application for a variance for us to vary the code to allow us to grant it for a building that is not yet constructed.

Mr. Fahey said did we not discuss that at the last meeting. Did we not ask the attorney to take a look at that.

Adam Rodriguez, Town Counsel, said from my view that does not mean that the structure must be existing for the special permit to be issued. The special permit can be issued certainly conditioned upon construction and compliance with approved site plan which is implicit, but I do not read it that way.

Chairman Fine said I am just reading the exact wording of the code, that is what it says.

Mr. Rodriguez said I understand the words, I do not take that to mean the structure must be existing for the special permit to be issued.

Mr. Fahey asked what do you mean by that, does that mean that you can build it in compliance with the code as far as a home office?

Mr. Scott said one condition of your approval could be that before the home office is occupied we file for a certificate of occupancy.

Chairman Fine said you have to anyway.

Mr. Rodriguez said in my view the point is the use is not authorized until the structure is completed, but the permit can be granted conditioned on the structure being constructed and in compliance with the site plan approval.

Chairman Fine said you cannot have a home office use and use it before the house is there anyway.

Mr. Rodriguez said of course, the use would not be authorized by the special permit until the building is constructed. I do not take that to mean the special permit cannot be granted.

Chairman Fine said am just concern with the wording being as explicit as it is. Why is the word existing put in there.

Mr. Rodriguez said you have no use until the structure is built. That is the way I read it.

Mr. Fahey said I would condition it upon construction and compliance with the site plan the Planning Board has already approved.

Mr. Meisterich said I agree with Adam, you cannot use it if it does not exist, right. It does not say it is the intent of this section to allow the granting of a special permit for an existing residential structure, it says allow for the use of an existing residential structure, so I agree with Adam that we can allow for that, we can grant the permit to allow for the use but the building must exist for the use to occur.

Chairman Fine said the building of course would have to exist.

Mr. Fahey said when you come back to it, is there a limitation on the size of a home office in an existing home.

Chairman Fine said no more than 25%.

Mr. Fahey asked so if that is defined within the application for a new house, can that be still restricted?

Chairman Fine said it will have to be restricted to that, am not talking about other restrictions in the code that would have to follow also along with parking plans and that sort of thing. I Am trying to get passed the first sentence of the code.

Mr. Meisterich said it does not say we can only grant the permit for an existing structure, it says we can allow for the use. I agree with Adam, why we cannot allow for the use at any time.

Chairman Fine said my problem is this, as logic dictates, obviously then, if you cannot use it if it does not exist then what is the necessity of the word existing in the sentence, why not just say in a residential structure.

Mr. Tripodi said I am inclined to go with Gordon on this. It says it is an existing structure, you make an application for structure that is does not yet exist, does not seem to be compliant with the code.

Mr. Rodriguez said to be clear, it does not say the application must come before the structure exist.

Mr. Tripodi said but the granting of the home office that can only be made when the structure exist.

Mr. Rodriguez said that is the question, and the code does not say that, in my view the code does not say that.

Mr. Tripodi said you can make an application but you cannot act on the application till there is an existing structure, that is how am interpreting it.

Chairman Fine said right, otherwise why have the word existing in there, we know it cannot be done unless the thing is existing.

Mr. Scott said as an example we were given major power generation permit by the Planning Board without a building there, and we have a permit for that and there is no building yet.

Chairman Fine said that depends on what that section of the code says. I am reading a specific section of the code. This is what the language says.

Mr. Scott said we would accept a resolution which indicates or reiterate the fact that it has to be existing in some form.

Chairman Fine said of course because you cannot have a home office in a non existing building.

Mr. Scott said that is right, we would be more than happy to put in the resolution reiterating of this regulation basically indicating that we have existing home to put it into. This is why I am saying you could get the CO on the house and have the home office just an open space.

Chairman Fine said all I am saying is there is a reason why the word existing is in there, and my recollection of being on this Board for many years as I have been, we have never done a home office permit for a residential structure that was not already built.

Mr. Miressi said the whole idea of the house, being as in a new Covid world, you can now build a home with a home office in it.

Chairman Fine said I am not addressing the house itself in any way, all am saying is the application itself.

Mr. Miressi said going forward you might be getting a lot more application with people that want to build houses with an extra office in it because of the new work from home attitude.

Chairman Fine said in my mind then the Town Board would have to change the code to be more explicit to say that. A lot more people working from home these days, but that is not what the code says, that is all am saying.

Mr. Meisterich said here is another statement in the code in the same section, it says architectural treatment of any structure containing such use shall be in harmony with the abutting residential development.

Chairman Fine said that is you want to put up a sign for it or something for your home office.

Mr. Meisterich said that implies something that does not exist. If you are worried about the architectural treatment.

Chairman Fine said an architectural treatment could be a sign, you do not put a sign up before the office is there. An architectural treatment is not necessarily a structure.

Mr. Tripodi said another question I got, we are going to build this house and there is going to be a large vacant space that is intended to be utilize for office space, it is an in home office, why do you need a permit at all, if all you use it for is to store paperwork?

Chairman Fine said because he has employees coming in to, said he has two (2) employees.

Mr. Miressi said if you consider my two (2) cousins that are my assistants employees, then yes maybe I do.

Mr. Meisterich said that is a valid question, we are all working from home now, I work from home all the time and I do not have no special permit.

Chairman Fine said we have to have a decision that not only make sense to us but also make sense legally. The decision has to be "bullet proof" if anybody want to challenge it in that sense if it goes before another court that says that is not what the code says.

Mr. Fahey asked would we need to refer this to the Town Board and ask them for a decision in this instance?

Chairman Fine said no, the section is what it is, we have to interpret it. They are free to change the code if they want.

Mr. Fahey asked could they change it for an individual?

Chairman Fine said I doubt that, that is spot zoning.

Mr. Fahey said are we not doing that now.

Chairman Fine said no, that is what am saying, this is really a variance. In my mind they are asking for a variance to have the permit issued before the place is existing.

Mr. Meisterich asked could we amend this application right now to include a variance?

Chairman Fine said he would have to re-notice it for a variance. I have no objection to re-noticing it, but am just saying I think it is necessary.

Mr. Fahey said from a legal perspective as for what the code says, by the letter of the law, by the code, we have to do it that way.

Chairman Fine said and if we are not being exactly code compliant then it is a variance. Which means an application for a variance.

Mr. Scott asked then if it is a variance then how do I work out the hardship criteria which is somewhat a statute to evaluate.

Mr. Gregory said with a special permit you do not need hardship criteria. I was personally involved in the creation of this thing (code section), back in the 70's and one of the reasons why it was created quite frankly was because of the fact there was a plethora of houses that were being used for doctors offices and real estate agencies because at the time there was no commercial space available to allow a lot of these uses, and there was a recognition that basically these houses needed to have some kind of control. So as a result this ordinance was created with a lot of the language that still exist. One of the things they did not think about as Gordon brought up, was the fact that you were going to have or construct a house with a professional office in it. I can see some of the argument certainly about the use not existing prior to the house being created. Right now am still king of struggling whether or not you actually need to go through the variance route to allow this particular application to continue. Am just wondering, does the applicant at this juncture understanding that he meets most of the criteria of a special use permit. Does he need to have a positive decision on this application in order to proceed with this construction?

Mr. Scot said everything is a risk, typically we work with a business where we have deliverables and which we have all the permits now in place with the town, in fact we are taking trees down next week to start the house. Everything could be construed as a risk moving forward if you did not have a acknowledgement that this component of construction above the garage will ever serve as a purpose, cause basically it is a square foot cost. We meet every criteria with a home office, the size, parking, development and evaluation by both the Town Engineer and Planning Board. Had to go for a site plan and an amended subdivision approval, we have gone to the Building Department as well when we first did this project, and we were referenced positively by him when I went to the Planning Board.

Mr. Gregory said basically we all know that special permit has a unique criteria. The rule is that you can get the special permit, and what am looking at here is the criteria that you have gone through in terms of the Planning Board approvals, and everything else you have managed to overcome that. At the end of the day, if this house was standing right now, that you would be granted a special permit and I think it would be tough for the Zoning Board to deny that application.

Mr. Fahey said I think we are trying to say that in a lot of way, we were trying to go down that road

but I will be perfectly honest, I do not see an issue with the approval of this, the only hurdle is whether it is an existing house or not. So if you build the house and come back and apply for it, personally I do not see it being an issue unless the size of it is somehow in non compliance.

Mr. Gregory said I guess what I am saying, it seems like from the information that I am looking at, that the special permit criteria have been met with the proposed construction and the issue really is at this juncture that very singular sentence that Gordon is talking about that says existing structure.

Chairman Fine said it is the first sentence of the code.

Mr. Gregory said what I am asking the applicant is that given the fact that you meet all that criteria, would he consider constructing the house and then coming back and asking for a special permit?

Mr. Miressi said honestly it is no problem, I would rather have it move forward and then we could comply later. Pretty much we are in line with everything that has been asked for. I have no problem going forward with that, as long as we are in compliance.

Mr. Scott asked could I adjourn this application then for an extended period of time and what is the exact definition of an existing house, when I do come back?

Chairman Fine said when you get a CO.

Mr. Fahey asked what is the projected time for completion of the house, six (6) months?

Mr. Scott said six (6) to seven (7) months.

Chairman Fine asked if there is anyone has a comment.

Jed Khandji, neighbor, said we heard a lot but logic here prevails, and I have a kind of tendency to lean with the logic presented by the Chairman, Mr. Tripodi and a few others on the Board regarding the existing. It is applicable for an existing residential property to be used for office space, that is the intent, and take it from someone who is not on the Board would read it and say that is the intent, and kind of support your arguments that I have heard. Now, as another neighbor mentioned, the genie is out. I like what I heard up to now so far and the progress for the path that you guys are following, however, the genie is out, that this is what I consider, what I would interpret as a business, you are building a house for a business purpose, you are using the house to do research. So the house is the business. A dentist is not using the roofing system, and I do not want to go into a lot of analogies, but I want to make it as clear as possible and have a sanitary type of discussion here. The focus on what is being presented, is I want to build this business and share the research from this business for monetary purpose or for the industry sake. Just think about what is being presented, it was in the newspapers, it was discussed at the last Board meeting in detail, this is a business and not a house. So I think build the house and then apply for what kind of application. This type of house really, if the Board wants to look at it again, and ask yourselves, should this be in a commercial zone like it was suggested before. If you put it in a commercial zone you could do all the research that you want, you could put all the panels, all the samplings. So that again is my perspective on it, and I listened to you for a long time, you guys have been talking about it in quite enough detail. Clearly the application started out as a business, now we are taking steps backward to say no let's build the house first and then we will see how we will finagle a business out of it. That is how it is presented to the public, that is how the public hears it.

Mr. Fahey said forgive me if I am wrong, and I could be out of line, but the interpretation that I get of the project is it is a test site. It is a test house in a residential zone, the guy is going to live in the house and he is going to use the data that he gets from the house and share it, possibilities down the road, but it is a residential house.

Mr. Meisterich if it was in a commercial zone he would not be allowed to live in it.

Chairman Fine said as far as being a residential structure in the zone, it already passes muster with the Planning Board and the Building Department, they only sent it here for the special use permit. That is all that is really in front of us.

Mr. Scott said we were granted a permit by the Planning Board as the major energy supplier, so we have gone through the root of allowing electricity to be generated, so we have all the rights to put the electricity into it so it is really not the use that is the problem, it will be there, it will be generating electricity, it is all compliant.

It will be a matter of coming back to you and saying in this approved house we are going to put a home office.

Chairman Fine said that is all am saying, right now you are only in front of us to grant you or not grant you a permit for a home office. We are not here to say you cannot build a house.

Mr. Meisterich said this is a typical application for a home office use that anyone would do in any house and you just have to demonstrate how you meet the criteria in the code for a special permit.

Mr. Gregor said I think we have done a wonderful job of getting to where we are.

John Schroeder, neighbor, said I would just point out that there is more to this project than just the roof, the applicant has pointed out that the battery packs, the charging systems for the cars are all part of a Tesla packet, so there is more to this than just the roof. Secondly, the offer to create a turn around at the bottom of Jerome Road, lets not forget the fact that the applicant has also indicated that they may construct a second house, and my guess is that they would be using an old paper road to access that piece of property and that would be at the point where the turn around. So it is possible the turn around could disappear with the advent of the construction of the driveway down the road literally.

Mr. Fahey said that is something before the Planning Board. The Planning Board addressed that have they not?

Mr. Scott said yes.

Chairman Fine said it is kind of beyond where we are with this application.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item is adjourned until the applicant tells us they are ready to proceed.

NEW PUBLIC HEARING

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

Mailings and sign certification in order.

Melanie Sindaco present for the meeting.

Joseph Riina, Project Engineer, representing the applicant.

Mr. Riina said Melanie Sindaco is proposing to utilize the United Methodist Church at 2300 Crompond Road for a preschool use. In 2018 the Zoning Board issued a three (3) year special use permit for the Montessori School to operate out of there, and at the time they were operating at 30 students and they asked for and additional 18 which was granted, that is set to expire in May or June. They are no longer in operations there and the proposal is for Melanie to expand her preschool from her current use at Kear Street and utilize the same space that the Montessori School was using.

Mr. Fahey asked would the school on Kear Street still be used?

Ms. Sindaco said yes, the school on Kear Street will still be used.

Chairman Fine asked if you are looking to take the place of the Montessori School or in addition to?

Ms. Sindaco said we are taking their place.

Mr. Riina said Melanie made some key points. The hour of operations, Monday-Friday, 7am-6pm. They want to use 4 classrooms, total of 58 children, 8 staff members and range in age from 18 months-9 years old.

Mr. Riina showed the diagram of the emergency evacuation routes. He said there is going to be fire drills where the children are going to be, that would occur on a regular basis. The staff is going to have a plan on how to evacuate and where to evacuate to. In occasions the students are not able to return to the building, they are going to look to the police department that is across the street to

provide some safe shelter.

Mr. Fahey asked has either the police or fire reviewed this?

Chairman Fine said we have a memo.

Mr. Riina said the building is fully equipped with a centrally monitored alarm system. There are fire extinguishers placed strategically throughout the building.

As far as the parking goes, there is really minimal need for parking, parents are going to be dropping off, they are only going to be there a short time. There is 70 parking spaces, that is quite a bit more than what is required, do not believe that parking is an issue.

Once the parents are parked, they will drop off the students by entering the side door, and the estimate is 15 cars between 7am-8am, 13 cars between 8am-9am, 12 cars between 9am-10am.

Similarly the pickup will be kind of reverse, and you will have 10 cars between 3pm-4pm, 15 between 4pm-5pm and 15 cards between 5pm-6pm.

There is adequate toilet facilities for the students, it is already set up. Other than making it look like their own, there is really nothing they have to do to prepare for the student to occupy the space.

They are going to use 4 classrooms, 3 with 16 children in each room and 1 with 10 children. The ages will be between months-9 years.

Mr. Fahey asked is this design with the new Covid requirements for spacing?

Ms. Sindaco said at our other sires we follow the Covid requirements so we are very familiar with them. Preschool does not have the same Covid requirements as K-12 students do, so we do not have the 6ft. of distancing, instead we have cohort sizes, so it is a little bit different.

Mr. Fahey said God forbade we go back to this craziness we experienced for the last year or so, is there a preparation to be able to handle that, to handle the distancing.

Ms. Sindaco said the requirements are different for preschool aged children than they are for the older kids. This is an essential business, there was never a sort of stop on childcare and preschool, and the distancing other than our staff wearing masks and very stringent cleaning requirements and stuff, there was not ever a distance sort of motion put in front of us at any point.

Mr. Fahey asked is there an anticipation adhere to something restrictive, is there any anticipation for any of that going down the road?

Ms. Sindaco said yes, the rooms are larger than what we would need, so we are putting 16 children per room so to follow state requirements and guidelines. We are not actually maxing out the maximum capacity for the rooms.

Mr. Fahey asked normal capacity for the room would be what?

Ms. Sindaco said it depends, each room is a little bit of a different size, we are putting 16 kids in each rooms, and we could round about do 18 in a room, so we are left roughly with 75 extra square feet per room than we would need.

Mr. Riina said there is an existing outdoor playground that is fully fenced in that is going to be utilized. Staff will be trained with all the requirements that they need to be. There will be no transportation provided, the children will be dropped off by the parents to the school.

Mr. Riina showed the layout and the plans of the property.

Mr. Fahey asked has this been modified to show upgrade or is it pretty much the standard that was there before?

Ms. Sindaco said the church upgraded this right before we took over.

Memo from the Fire Inspector dated, March 5, 2021 states:

On March 2, 2020 I performed the annual fire and safety inspection of the Yorktown Methodist Church at 2300 Crompond Road, Yorktown Heights, NY. During my inspection I found no violation of the State and local fire codes. At this time I have no objection to the proposed continued use of the facility as a child care center.

Memo from the Planning Board dated, March 15, 2021 states:

The Planning Board, at its meeting on March 8, 2021, discussed the proposed Little Red House child day care center at the subject location, which was previously occupied by another school for

many years. The same traffic circulation and parking would be used. The Planning Board has no objections to the issuance of the Special Use Permit.

Memo from the Building Inspector dated, March 18, 2020 states:

This is an application to amend and renew the existing special use permit for a Day Care Center at this address. There will be a total of 58 children. 3 classrooms with 16 and 1 classroom with 10. The last special use permit was for up to 18 students in the day care in addition to the 30 students in the former Montessori School. The day care will now be the only tenant. The school and day care have been in use since the time it opened and I have no objections in granting this use to continue and the issuance of a new special use permit.

Mr. Riina showed the diagram showing the exist points, assembly points and where the fire vehicles will enter.

Mr. Fahey asked is there a limitation on size as to how many students you could have?

Ms. Sindaco said there is only a limitation to number of students you could have based on how many classrooms you are using.

Mr. Riina said at the end of the day, nothing is going to occur other than a new signage, nothing is going to occur to change the site, the exterior of the site, the site is going to operate the same way it has been operating. It is just going to be 10 more children. From a neighborhood quality or character there is not going to be any change there.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a special use permit for a day care in Yorktown United Methodist Church was granted for a period of three (3) years. With the general condition; operation Monday-Friday, 7am-6pm. 4 classrooms, maximum 58 children, pickup and drop off to be done per the plans submitted. The traffic circulation and parking to be the same as the previous applicant being the Montessori School when they were there.

| | | |
|--------------------------------------|--------------|---|
| 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. |

Mailings and sign certification in order.

Paul Liberatore present for the meeting.

Heike Schneider, Architect, representing the applicant. What we are proposing is 27'5" away from the property line, but 40' are required. We are requesting a 12'7" area variance..

Chairman Fine asked what is the nature of the addition?

Ms. Schneider said we are proposing a second floor expansion. The house basically is legally non-conforming, it is pre-existing and the house as it is now is already only 27'5" off the property line.

Mr. Fahey asked when was the house built?

Ms. Schneider said 1953.

Mr. Fahey code was existing in 1932.

Ms. Schneider said it is really interesting, if you look at the old survey it already show that it is legally non-compliant. So basically we are proposing to enlarge the house slightly. Right now the Liberatores' have a combined first and second floor, they have 1500 square feet and we are expanding it to 1800 square feet, we are proposing a 300 square feet expansion on the second floor to make a decent master bedroom.

Mr. Fahey asked what size is the lot, is it ½ acre?

Mr. Liberatore said yes, about ½ acre.

Chairman Fine asked if plans was submitted.

Ms. Schneider showed the floor plan and photo of the house.

Memo from the Assistant Building Inspector dated, March 18, 2021 cited no objections. The Board discussed the application and applied the statutory factors. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted for an addition with a front yard setback of 27'5" where a minimum of 40' is required as per section 300-21 and Appendix A of the Town 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.

Recording Secretary, Glenda Daly
Meeting adjourned at 7:55pm
Happy Zoning!