

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS  
DECEMBER 9<sup>TH</sup>, 2021**

The regular monthly meeting was held for the Zoning Board of Appeals, December 9<sup>th</sup>, 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 Kyra Brunner, Legal Secretary, Adam Rodriguez, Special Counsel, and Assistant Building Inspector, Steven Fraietta.

The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held January 27<sup>th</sup>, 2022. Mailings are to be sent from January 3<sup>rd</sup>, 2022 to January 12<sup>th</sup>, 2022.

**NEW BUSINESS**

**SHAWARBY #48/21** This is an application for a special use permit for a new accessory apartment.  
**Property Address:**  
**3570 Ellis St.**  
**Section 15.15, Block 1, Lot 1**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on January 27<sup>th</sup>, 2022, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

**MUSHKOLAJ #49/21** This is an application for a special use permit for a renewal of an accessory apartment.  
**Property Address:**  
**3551 Buckhorn St.**  
**Section 16.10, Block 4, Lot 13**

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 January 27<sup>th</sup>, 2022, this item will be handled administratively.

**PHILLIPS #50/21** This is an application to allow the enclosure a front porch with a front yard setback of 15.7' where a minimum of 30' is required, a second story addition with a front yard setback of 23.7' where a minimum of 30' is required, the proposed side yard deck with a front yard setback of 23.07' where a minimum of 30' is required, an existing shed in the rear yard with a side yard setback of 3.31' where a minimum of 10' is required per section 300-21 Appendix A of the Town Zoning Code.  
**Property Address:**  
**3750 Meadow Ln.**  
**Section 16.06, Block 2, Lot 40**

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 January 27<sup>th</sup>, 2022, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

**CONTINUED PUBLIC HEARINGS**

**ARGIRO #44/21** This is an application for a special use permit for the parking of a commercial vehicle in a residential area as per section 300-62 of the Town Zoning Code.  
**Property Address:**  
**3517 Kamhi Drive**  
**Section 16.11, Block 3, Lot 45**

Applicant not present.

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

**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.  
**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.

**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**

Not opened.

**NEW PUBLIC HEARING**

**JOHAL #47/21** This is an application to allow an addition with a side yard setback of 35.4' where a minimum of 40' is required and a deck with a side yard setback of 14.1' where a minimum of 15 is required as per 300-13(G), 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:** This property is located in a R1-20 zone.  
**3612 West Rd.**  
**Section 15.15, Block 1, Lot 20**

Mailings and sign certification in order.

Kumari Johal present for the meeting, she said we would like to add to her existing family home because her family is growing and they want their sons to live with them.

Chairman Fine asked what is the nature of the addition.

Mrs. Johal said we want to make 2 bedrooms at the ground floor for one of our sons, and 2 bedrooms for the older son.

The Board reviewed the plans.

Mr. Meisterich asked you are adding 4 bedrooms?

Mrs. Johal said yes.

Chairman Fine asked are you on sewer or septic?

Mrs. Johal said sewer.

Memo from the Assistant Building Inspector dated, December 1, 2021 states: I have inspected the property on November 29, 2021 and have no objections in granting relief. The applicant will need a building permit and certificate of occupancy for this work.

Mr. Gregory said just to clarify, the 14.1ft. is for the stairs.

Mrs. Johal said the stairs.

Mr. Meisterich asked this addition will open into the existing house, and it will it be walled off like separate entrances.

Mrs. Johal said there will be a separate entrance, side entrance.

Mrs. Johal showed the Board where the entrance will be located on the plans.

Mr. Meisterich said it is like 2 accessory apartments almost being added.

Chairman Fine said there is no cooking facility.

Mr. Meisterich said there is a sink in one of them.

Chairman Fine said you do not cook in a sink.

Mr. Gregory said if there is not one, it is no.

Mrs. Johal said the reason we want our sons to live with us it that my husband have Parkinson disease and I have diabetes, and we prefer our sons live with us so they can take care of us.

Mr. Meisterich said I understand that, but if your sons are living with you, how many sons do you have.

Mrs. Johal said 2 boys.

Mr. Meisterich said so you are adding 4 bedrooms.

Mrs. Johal said older son is married and he haa a 2 year old.

Mr. Meisterich said that is okay, but you really cannot add another kitchen into this.

Mrs. Johal said no kitchen, we are keeping just one kitchen.

Chairman Fine said just to be clear, so the record is clear. The plans do not include a kitchen.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow an addition with a side yard setback of 35.4' where a minimum of 40' is required and a deck with a side yard setback of 14.1' where a minimum of 15 is required as per 300-13(G), 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.

**McMONIGLE**

**#46/21**

**Property Address:**

**738 Mercer Rd.**

**Section 26.20, Block 1, Lot 75**

This is an application to allow an existing front terrace with a side yard setback of 12.9' where a minimum of 15' is required, a combined side yard setback of 38.5' where a minimum of 40' is required and a front yard setback of 23.9' 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.

Mailings and sign certification in order.

Nora Hildinger of Building Permits Services representing the applicant.

This application is for a terrace, it is an 18'x7' terrace in front of the house. It is constructed of stone and concrete with a flag stone top. The terrace is 28" on the right-hand side from grade, and 38" on the left hand side from grade. The stone terrace has been there approximately since 1995. Now I am going to discuss a few points of arguments in favor of granting this variance. It was built by previous owners.

First, there are unique physical circumstances for the terrace where the property slopes away from the home so that it is a low terrace. It slopes away but what this terrace does is create a level platform for entry into the home, and the screen door swinging over the platform, you can see that in the pictures I supplied. With the slope we have created a level entry into the home, and also I want to mention that the house itself is out of the setbacks. The house is 30' from the front yard instead of 40', and the house is as well at 12.9' on the side yard. The terrace extends across the foundation to the edge of the house, so the front and the side of the house are already out of zoning compliance. So it would be impossible basically to conform to zoning with this terrace no matter what. So that would be the second point, that no matter what the house does not comply so the terrace cannot comply.

Mr. Fahey asked do you know when the house was built.

Ms. Hildinger said the 60's. We are assuming that the zoning on the house may have changed at some point, that it might have been R1-10 and became R1-20 which is what created this situation, because the house has a building permit and certificate of occupancy as it exists.

My third point would be that this addition was not created by the new owners, they bought the house like this and the terrace has been there since 1995.

Mr. Fahey asked how long has your clients own the house?

Ms. Hildinger said maybe 4 months, they just bought the house and this came up when they were buying the house with the terrace.

Chairman Fine said they did not buy it subject to being legalize, they bought it anyways.

Ms. Hildinger said they did buy it subject to being legalize.

Chairman Fine said there is also a fence in question.

Memo from the Assistant Building Inspector dated, December 1, 2021 states: I have inspected the property on November 29, 2021 and observed small section of vinyl fence in the right side yard that is 6.2" from grade which exceeds that allowable 4.5'. This would need a variance. I have no objections in granting relief for both the fence and the front porch. The applicant will need a building permit and certificate of occupancy for the porch.

Ms. Hildinger said I believe that has been there for many, many years as well.

Chairman Fine said would you that to be added.

Ms. Hildinger said yes please. My fourth point is if the variance was granted, it would not alter or change the character of the neighborhood, it is actually an attractive terrace.

Chairman Fine said you are not adding anything new, just legalizing what is there.

Ms. Hildinger said exactly, just legalizing what is there. My final point would be if you did not grant the variance and they had to remove it, it would be a financial hardship of course and the owners could not really construct anything that would comply to the zoning ordinance because the house was already out of zoning, and I would still have to have a platform because by code the screen door would have to swing out over a platform.

Mr. Fahey said what were they going to do if this was not legalized, they just bought the house. I am a little curious, is it just an assumption that we were just going to say okay.

Ms. Hildinger said absolutely not, that is why I am here. I am trying to convince you that it would be a hardship.

Mr. Fahey said but for some bizarre reason we said no and this have to come down, what are they going to do.

Ms. Hildinger said I would hope that you would not. I do not think they had a choice, they purchased the house, it came up that his was out of the zoning ordinance, and we are trying to get it corrected. They are not assuming that you are going to say yes.

The Board discussed the application and applied the statutory factors.

Motion to add the section of the existing fence that is in the side yard that 6.2ft. in height where 4.5ft. is the maximum.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow an existing front terrace with a side yard setback of 12.9' where a minimum of 15' is required, a combined side yard setback of 38.5' where a minimum of 40' is required and a front yard setback of 23.9' where a minimum of 40' is required, and an existing fence with a height of 6.2' where a maximum of 4.5' is required, with the stipulation that it pertains only to these requested variances and not the remainder to the property line, and, and any new fence would have to be in conformity with zoning regulations.

Recording Secretary, Glenda Daly  
Meeting adjourned at 6:59pm  
Happy Zoning!