

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
JANUARY 27, 2022**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, January 27th, 2022. 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, Steven Fraietta, Assistant Building Inspector, and Luciana Haughwout, Town Board Liaison.

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

It was announced that the next public hearing would be held February 24th, 2022. Mailings are to be sent from January 31st, 2022 to February 9th, 2022.

NEW BUSINESS

VAUGHAN #1/22 This is an application to allow construction of a new front entrances with front yard setback of 34/3' where 40' is required and a new kitchen addition with a front yard set back of 35.3' where 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:
2722 Denby Dr.
Section 26.16, Block 1, Lot 39

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 24th, 2022, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

KELLY #2/22 This is an application to allow a 5' combination of a wall and fence in a side yard where a maximum of 4.5' is permitted as per section 300-13F and Appendix A of the Town Zoning Code.
Property Address:
1879 Hanover St.
Section 37.19, Block 1, Lot 18

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 24th, 2022, and referred to the Building Department. Site Visits will be done by the Board members separately.

TACO BELL #3/22 This is an application to allow a front wall sign of 47.7 square feet where 40 square feet is required and a side wall sign of 34.7 square feet where 0 square feet is required and a rear wall sign of 8.5 square feet where 0 square feet is required as per section 300-21 Appendix D of the Town Zoning Code.
Property Address:
3605 Crompond Rd.
Section 36.05, Block 1, Lot 16

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 24th, 2022, and referred to the Building Department, ABACA and Planning Department. Site Visits will be done by the Board members separately.

GEARY #4/22 This is an application to allow the construction of an addition with a lot area of 10,176 square feet where 20,000 square feet is required, a non-conforming parcel as per by 300-13F and Appendix A of the Town Zoning Code. Also a rear yard set back of 31 feet where a minimum of 40 feet is required.
Property Address:
2755 Windmill Dr.
Section 27.10, Block 3, Lot 45

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 24th, 2022, and referred to the Building Department. Site Visits will be done by the Board members separately.

CROWN CASTLE #5/22 This is an application for a new special use permit for the existing wireless telecommunications facility.
Property Address:
Rt. 134/Kitchawan &
Aqueduct St.
Section 70.05, Block 1, 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 February 24th, 2022, and referred to the Building Department. Site Visits will be done by the Board members separately.

TRADER JOE'S #6/22 This is an application to allow a rear sign of 63.38 square feet where 0 square feet is required on the north elevation and a side sign of 63.38 square feet where 0 square feet is required on the east elevation as per section 300-21 Appendix D of the Town Zoning Code.
Property Address:
3200 Crompond Rd.
Section 26.18, Block 1, Lot 19

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 24th, 2022, and referred to the Building Department, ABACA and Planning Department. 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. Chairman asked for letter to be sent to the applicant.

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. This property is located in a R1-10 zone.
Property Address:
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

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

Mailings and sign certification in order.

Mohsen Shawarby present for the meeting.

Chairman Fine asked if this is an existing accessory apartment that you are looking to legalize.

Mr. Shawarby said yes, it had been legal for many years some time ago, but the law had changed that. I had to find out when it expired and to renew it myself. I did not do that, I did not renew it. This is a new application.

Memo from the Assistant Building Inspector dated, January 24, 2022 states: As of this date there has been no contact with the applicant for the special permit for an accessory apartment. The applicant left no phone number on the application, but there was an email to which I sent a request for the owner to contact me so I can do an inspection of the proposed apartment. There was no response. I then sent a letter by US mail on January 12, 2022 and again no response. Until eh applicant contacts me so I can do an inspection of the property this application should be adjourned. Mr. Shawarby said he did not receive that.

Chairman Fine said what he is basically saying is we cannot move ahead on the application until he inspect the apartment. So you are going to have to contact them and set up the inspection.

Letters and email from the neighbors with their objections to the application submitted to the file: Stephanm Lehman, dated January 23, 2022.

Andrea Black Jeffries, dated January 25, 2022, with photos showing the condition of the yard.

Sheryl Carille/Farrell, dated January 26, 2022.
Shawn P. Farrell, dated January 26, 2022.

Chairman Fine stated that since some of the complaints cited a rezoning, he wanted to make it clear, we are not talking about a rezoning. It is a special use permit not a rezoning, and accessory apartments are specifically found in single family zoning districts. There is no district per se for accessory apartments, it is part of the single family zone.

Mr. Shawarby said most of those negative letters are really to a time where for several years I had been overseas and rented the house, and very sadly I had rented the house to people that turned out to be trouble makers, and they caused the garbage in the house. There was a lot of issues, there was a lot of problems, but now I came back and the house is in order and I am keeping everything up to date and my purpose is to rent the apartment to one person that would help. The criteria to help in cleaning, doing yard work maybe clean the snow, but just one individual. When I was overseas and rented the whole house to people that brought on a lot of people and I had to evict them and get rid of them. It caused me a lot of problems not just the neighbors. So I am back here at the house with my wife and two kids and plan to just rent that had been rented before with no problem whatsoever. But those issues were true when I was overseas.

Andrea Black Jeffries, neighbor, said in 2005 Mr. Shawarby was here and he was at the meeting and I have called the Town over the years, and there was not just one family being rented to at any point. In terms of 2012 when those pictures were taken I do not know where Mr. Shawarby was or Mrs. Shawarby was, but that was their responsibility. In addition to that, the times when people came out in the street to the car, times that they were living there. So that does not really hold that he was there the whole time. I looked up on Google and it turned out that Mr. Shawarby and Mrs. Shawarby are no longer a team and the house was lent to Mrs. Shawarby or given to Mrs. Shawarby. I do not know if that is incorrect information but it is a legal document on Google that I read the whole thing. So I am curious why Mrs. Shawarby is not here since she is technically the owner of the house. Chairman Fine said I do not know what document you looked at on Google, but deeds are not on Google and that is what you have to look at, it is the deed that shows ownership. I am not sure what document you were looking at but it is up to the Town to determine who the proper applicant is by looking at the records that they have in Town Hall. So if it is not the owner applying they will address that, but I not received any documentation from the Town as to Mr. Shawarby not being a proper applicant.

Ms. Jeffries said but in 2005 Mr. Shawarby was aware of the problems
Chairman Fine said I understand what you are saying, I am not talking about that issue. I am just talking about who owns the property now. I understand what you are saying, all I am saying I do not know who owns the property but that is up to the Town to let us know if we have the proper applicant here.

Vincent Ciccarello, neighbor, said I understand Mr. Shawarby is speaking to the changes that he supposable made, but on November 3, 2021 the Yorktown Police Department were at that exact residence as they are always at that residence. As you are aware there is a school that is directly next door, as you have heard in the news this week what happened across the street from Lexington Avenue, I do not believe that Mr. Shawarby is screening his applicants. He is bringing any and everybody in there. As one of my neighbors just spoke, this has been an ongoing problem for years. There is someone living in that apartment right now to my knowledge and I believe there is more than one apartment there. It looks like a used car lot outside of this house.

Chairman Fine said that is one of the reasons why the Building Department has to do an inspection. Mr. Ciccarello said absolutely, but what I am saying is that this is deceiving, he is going through the process. I received a letter in the mail and it said nothing but his signature. I had called Abby to find

out what was going on. It is just ridiculous what we have to endure in this neighborhood. This is a family neighborhood, this is a family neighborhood, we are all next to each other but if it is just going to be revolving door and it is negatively impacting our property value, because when you drive by that house it is an eyesore. Just look where their garbage is, a code violation. They have a 6ft. fence in the front of their house. So I speak against this, and I understand what you are saying as far as he did not have it inspected, but that speak to exactly to what is going on. They are trying to railroad the truth.

Chairman Fine said we do not have an inspection, we are not ruling on it without that. That is what I am saying.

Mr. Cicciarello said I understand but the police was just there is November.

Chairman Fine said I am not discounting anything you are saying, I am just telling you we cannot do anything without inspection.

Mr. Cicciarello said I am speaking to Mr. Shawarby's character about how since he has been there things has been better, that is not true.

Mr. Fahey asked does Mr. Shawarby actually live there.

Mr. Shawarby said me, my wife and daughter.

Mr. Fahey asked do you actually live at that location.

Mr. Shawarby said we are calling from the house.

Chairman Fine asked to see a copy of the notice that was sent.

Ms. Brunner showed the notice.

Chairman Fine asked Mr. Cicciarello did you receive what is on the screen, the application.

Mr. Cicciarello said no.

Chairman Fine asked what did you receive?

Mr. Cicciarello said a blanket paper.

Chairman Fine asked what was on the paper.

Mr. Cicciarello said it just said that there was going to be a hearing on this date and then there were 3 or 4 lines that were blank, to describe what is going to happen and there was nothing written in that box.

Chairman Fine said I do not know what you received but I would like to know what you received.

Could you send us a copy of it so we can see what it was?

Mr. Cicciarello said absolutely.

Chairman Fine said if you can before the next meeting, send the Legal Department a copy of what you received.

Mr. Cicciarello asked if individuals are living there now, what recourse is this.

Chairman Fine said they are not supposed to be using it as accessory apartment could be a violation, but if the Town issues a violation and it is an application pending it stays the violation by law.

Mr. Fahey said until things are resolved it does not really say things are going to be permanent. It is just a short term duration until we resolve the issues that are before the Board right now.

Mr. Cicciarello said I understand, but is speaks of the character that is in front of us right now. What are rules if we are not going to abide by the rules, what are processes if you are not.

Chairman Fine said that is one of the reasons I want you to send us what you received.

Ashley Cicciarello showed the Board the noticed that was received.

Chairman Fine said although it do no say much, it does say application for accessory apartment.

Above the 3 lines it says file an application for accessory apartment permit. So that probably is sufficient under that the notice statute says because it does say application for accessory apartment.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item is adjourned so the Building Department can get in there and inspect the property. If anybody have other comments they want to submit, proof of any activities going on there, feel free to submit it to us by next month's meeting.

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

Mailings and sign certification in order.
Iber Mushkolaj present for the meeting.
Chairman Fine said this is a renewal.

Memo from the Assistant Building Inspector, dated January 18, 2022 states:

Due to Covid-19 a virtual inspection was made on January 18, 2022 and found to be in compliance with the Zoning Ordinance. An on-site exterior inspection was also performed on January 13, 2022 and found no violation. I have no objection to issuing the renewal of the special permit.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for special use permit was granted for a period of three (3) years.

PHILLIPS #50/21 This is an application to allow the enclosure a front porch with a front yard setback of 15.57' where a minimum of 30' is required, a second story addition with a front yard setback of 23.07' 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

Mailings and sign certification in order.
Applicant Nancy Phillips present.
Heike Schniekle, Architect representing the applicant.

Ms. Heike said 3750 Meadow Lane was built in 1940 and it basically is legally non-conforming as it is sitting on the property. We are adding on a door or let us say new roof to be able to use the attic floor as a bedroom. We are turning the existing porch into a four-season porch.

The plans was shown of the proposed addition.

Ms. Schniekle said the porch has been there all along and then the hatched part is where we are raising the roof, basically building a new roof which is going to new a new gable, and to create a usable space in the attic because the attic as it is right now is less than 7ft. high. So this way we have more room on the first floor because the existing living space is very small. We are opening up one of the bedrooms downstairs included into the living space, and moving one bedroom upstairs. So basically we are not increasing the number of bedrooms. We would just like to make this house more usable. A third part of the variance that we are asking for is a deck. The deck goes straight out, it basically is aligned with the existing front part of the house. We are not asking for more than was there already. And the fourth item on the variance list is the shed in the back which also has been there for a very long time. I do not know.

Ms. Phillips said 30 years.

Ms. Schniekle said so the shed is only 3.31ft. off the property line. Nancy talked to the neighbor and I think he also provided a letter saying that he is not bothered by the shed.

The elevation plans was shown.

Ms. Schniekle said the front porch is not going to be any different except we are putting windows in,

right now it is just an open covered porch. The deck is aligned with the front façade. In the back is the sunroom, so that one we are adding on but this one does not request a variance. Basically our second floor addition which is that new gable is really what increases the non-conformity, because the house sits too close to the property line. 30ft. is required and we only have 23.07ft. to front property line.

Letter from William Eisele, dated December 21, 2021 states: I reside on the property next to this existing shed and have no objection to it remaining in its existing location.

Memo from the Assistant Building Inspector, dated January 18, 2022 states:

I have inspected this property on January 3, 2022 and found no apparent violations except for the shed mentioned above that requires a variance. I have no objection granting relief for all requested variances. The applicant will need a building permit and Certificate of Occupancy for this project.

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 variance was granted to to allow the enclosure a front porch with a front yard setback of 15.57' where a minimum of 30' is required, a second story addition with a front yard setback of 23.07' 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, and legalize 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. With the stipulation it pertains only to the requested variances 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 7:15pm
Happy Zoning!