

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
FEBRUARY 24TH, 2022**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, February 24th, 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
Alternate: Howard Orneck

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 March 31st, 2022. Mailings are to be sent from March 7th to March 16th, 2022.

NEW BUSINESS

CANTONE #7/22 This is an application for a renewal of a special use permit for a new accessory apartment.
Property Address:
1818 Amazon Rd.
Section 25.11, 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 will be handled administratively.

VALENTIN #8/22 This is an application to allow construction of an addition with a front yard setback of 28.50' where 40' is required as per 300-21 and Appendix A of the Town Zoning Code.
Property Address:
3436 Sulin Ct.
Section 17.10, Block 3, Lot 86

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 31st, 2022, and referred to the Building Department. Site Visits will be done by the Board members separately.

NEWSHOLME #9/22 This is an application for a renewal of a special use permit for a professional office as per Section 300-76 of the Town of Yorktown Zoning Code. Property is in an R1-20 Zone.
Property Address:
2326 Crompond Rd.
Section 37.9, Block 1, Lot 58

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 31st, 2022, and referred to the Building Department.

DAVIS #10/22 Application is to renew a special use permit for the Day Care Facility per 300-52 of the Town of Yorktown Zoning Code. Premises is in an R1-20 Zone.
Property Address:
1770 Strawberry Rd.
Section 15.11, 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 March 31st, 2022, and referred to the Building Department and Fire Inspector and a copy of the license to be provided.

FREUNDLICH #11/22 This is an application to allow construction of an addition for an accessory apartment which requires a special permit as per 300-38 of the Town Zoning Code.
Property Address:
3730 Chesterfield Dr.
Section 15.08, Block 2, Lot 78

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 31st, 2022, and referred to the Building Department. Site Visits will be done by the Board members separately.

SLICE PIZZA #12/22 This is an application to allow a sign of 37.675 square feet where 25 square feet is allowed on the south elevation as per 300-21 Appendix D of the Town Zoning Code.
Property Address:
3200 Crompond Rd.
Section 26.18, 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 March 31st, 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. Letters sent to applicant requesting updates. No response.
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item is marked off the calendar.

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.

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

Applicant not present. Letter to be sent to applicant that he must attend the next meeting.

NEW PUBLIC HEARING

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

Not open. No mailings.

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

Mailings and sign certification in order.

Paul Miethner and Mary Ellen Kelly present for the meeting.

Chairman Fine asked is it an existing wall and fence or not.

Ms. Kelly said we actually rebuilt a retaining wall that was dilapidated. We had the building permit approved, the construction was done on a 2ft. wall and now we want to put a 3ft. fence on top, and I guess some portion of it is allowed but it got too high.

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

I have inspected this property on February 17, 2022 and found no apparent violations. I have no objections to granting relief for requested variance.

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 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. With the stipulation it pertain only to the requested variance and not the remainder of the property line.

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

Mailings and sign certification in order.
James Polinsky of Signs Ink representing the applicant.

Memo from ABACA dated, February 3, 2022 states:

The application is for a variance request for the following three signs as shown in the renderings:

1. Sign A – Front, North Elevation. The proposal is for a 47.7SF sign where 40SF is allowed per the Zoning Code.
2. Sign B – Side, East Elevation. The proposal is for 34.7SF sign.
3. Sign C – Rear, South Elevation The proposal is for an 8.5SF sign.

The ABACA has the following comments:

1. The Board is not currently reviewing or accepting the proposed signage shown on the renderings for the “Tenant” and request for this signage to be removed from the renderings for clarity.
2. While not part of the variance application, the Board informally reviewed proposals for a free-standing pylon sign. It was suggested for the applicant to consider that since the Board was agreeing to the additional building signage and that the tower will be tall with good visibility, that the additional free-standing sign when submitted should be lower to the ground in the form of a monument similar to Lowes or pillar sign similar to Nissan or Chas nearby. The Board requests for any proposed sign to avoid excessive light glare by incorporating channel lettering, stencil cut aluminum or internally lit light box with an opaque background where only the letters and logo are illuminated. The Board looks forward to reviewing additional signage when submitted under a separate application.

The ABACA has no objections to the variance as submitted.

Mr. Polinsky said it was discussed with ABACA. They would like the free-standing sign that does not have a white glowing background. Taco Bell went to their corporate and they agree we can make the background a black background, with only the letters would be then white. They were not able to get the art in time since the last meeting, but they agree that we can do that and just allow a black background, just the Taco Bell letter which is a 6” letter which meets the code, and that would eliminate the excess of white glare that they were talking about.

Memo from The Planning Board dated, February 23, 2022 states:

The Planning Board, at its meeting on February 14, 2022, discussed the subject application for variance for signage. The Planning Board has no objection to the variance as requested.

The freestanding sign, though it does not require a variance as proposed, was included in the submission package. The Planning Board requests that the design of this sign follow the requests the Board has been making of other applicants on the same road as the properties are improved, which is to propose a monument style sign or to incorporate two poles instead of the single pole. The Board notes that Nissan, Chase and future McDonald’s signs all have a monument style design

in an effort to improve the streetscape along Crompond Road.

Mr. Polinsky said unfortunately he received that memo today, and they gave me the picture of the Chase sign, which is a tall vertical sign, the Nissan sign which is double sided and the McDonald sign which I did not know about, that was the new approval that is not standing yet. One of the things that our client was concerned about is the limited amount of parking and pulling out of the entrance and exit over there. That was why we were going with the single pole sign setback with the proper requirement. We are following the guidelines with 6" letter, then we definitely compromised and said okay we will go with the black background and it would match the exiting neighboring sign for the Vet that has the same. They have a black background and only the letter would light so it will look the same, the only difference is rather than being on 2 poles it is on a single pole, but I have not have the time to change that.

Mr. Fahey asked how tall is that sign.

Mr. Polinsky said it is 16ft. to the top which is maximum heights.

Chairman Fine said they are asking that you re-submit another proposal with the other style sign.

Mr. Polinsky said right, which we received today.

Mr. Gregory said when do you anticipate needing to put these signs up.

Mr. Polinsky said we still have some time; we are still under construction over there. They order these from corporate, it take probably 3-4 months that is why they are rushing me to get the permit for the sign.

Mr. Gregory said apparently there seems to be some issue with the Planning Board in terms of the design of the sign, what they are asking for, from us. In terms of issuing the variances is to almost condition the sign on being a monument type of sign as opposed to an elevated sign that you originally proposed.

Chairman Fine said usually when we do that, we do not condition it we just get the design of the new sign first or we say build per the memo.

Mr. Gregory said the reason I am asking is that if in fact there is a little bit of time then maybe we can have you go back to the Planning Board and see if you can resolve this issue before we grant the variance.

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

In reviewing this request, I have no objections to granting relief of these variances.

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 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. With the stipulation that this is conditioned upon the applicant only construct a monument style sign as any free-standing sign and follow the guidelines set forth.

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

Mailings and sign certification in order.

Allison Geary present for the meeting.

Ms. Geary said need a variance for non-confirming under size lot and addition relief requested 31ft.

where 40ft. is required. We are not actually adding any square footage, am enclosing my back porch.

Chairman Fine said what we have here is a lot area of 10,176sq.ft. where 20,000sq.ft. is required, nothing about setbacks.

Mr. Meisterich said it triggered the variance.

Mr. Gregory said there is no requirement for the addition. They are saying they require a variance because the lot is under size.

Ms. Geary said the existing open porch will be enclosed to create more living space.

Chairman Fine said there was a previous variance back in 1993 when it was owned by the Walsh to legalize an existing porch.

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

I have inspected this property on February 17, 2022 and found a shed in the rear yard that will be removed according to the plans submitted. There were no other violations.

In review of the Building Department records there was a previous approved variance #84/93 for a rear yard setback of 33'6" for this porch.

I have no objections granting relief for requested variance. 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 a variance as granted 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. 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.

CROWN CASTLE #5/22 This is an application for a new special use permit for the existing
Property Address: wireless telecommunications facility.
Rt. 134/Kitchawan &
Aqueduct St.
Section 70.05, Block 1, Lot 5

Mailings and sign certification in order.

Alec Gladd, Attorney, representing the applicant.

Mr. Gladd said Dish is proposing to collocate on the existing Crown Castle monopole, located on the IBM property off of Route 134 known as Kitchawan Road. More specifically Dish is proposing to mount 3 antennas at 102ft. on the existing 125ft. monopole. Dish will also be adding the necessary ground equipment within the existing fenced compound and no expansion of that compound is necessary. If you are wondering why you are seeing a Dish application who is known for the satellite TV. As part of the Sprint and T-Mobile merger, the US government gave them the fourth FCC wireless license and they are in the process of building out their network. As part of our application packet, we included a passing structural analysis to show that the antenna can be mounted safely on the tower, and we also provided an RF emissions report which looked at the cumulative RF emissions for all carriers and found that this was well below the maximum.

Chairman Fine asked how long has the tower been there already.

Mr. Gladd said that he does not know the answer to that.

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

I have no objections to granting a special use permit for this facility.

Pat Laino and Sal Calucci, neighbors, present for the meeting.

Mr. Laino said he is a recent neighbor moved in a few years ago. I heard a little bit about some of the changes, I think I heard additional height. This is about 300ft. off of my property line and I am not sure, do not have the exact measurements.

Chairman Fine said what it says is collocate 3 antennas at a center line height of 102ft. on the existing 125ft. pole.

Mr. Laino said so there is no additional height there.

Mr. Fahey said they are not going to make the pole taller it is still going to be 125ft., they are adding another array to it.

Mr. Laino said so from 300ft. and I know again health concerns. I moved in about 5 years ago with a 3 year old now.

Chairman Fine said that under the telecommunication law, we cannot take those matters into consideration.

Mr. Laino said the health concerns, only it is not 1350ft.. I know IBM is the property owner there and with their other probably about 40-50 acres there, wondering if we can a contact from IBM. I do not think Robert DeAngelis that used to be the site manager is working there anymore.

Chairman Fine said I have no idea.

Mr. Calucci said he is no longer there and we cannot find anyone to talk to.

Chairman Fine said what do you want to talk to them about.

Mr. Calucci said we want to know more about the tower and why with 300 acres it is 300ft. off.

Chairman Fine said I cannot answer, the engineers do it. Generally it is put in a place that is best suited to put a tower and serve the necessary area the best.

Mr. Laino said so with Robert gone from IBM was wondering, if there is another individual we could talk to, an engineer, head of engineering as he was.

Chairman Fine said I have no idea, but what I can say is the tower has been there, they are not moving the tower.

Mr. Laino said I guess the previous owners of my property probably came up maybe 5 times per year. I know health concerns is not an issue with the Board, but wondering if there was another potential location, they can put this with a little bit off rather than near my property line.

Chairman Fine said all I can tell you is if that was an issue, it would have been address when the tower was first approved. The tower has already been approved we are not re-approving the tower, only looking to approve something to be collocated on the tower.

Mr. Meisterich said so your suggestion would be to build another tower somewhere else. The first one is approved, why would they get rid of the one that has been approved, they are not going to do that.

Chairman Fine said we do not have the authority to say no we do not like it, take the tower down. They have a permit for it, they are only looking to put something else on it.

Mr. Laino said and renew the permit.

Mr. Gregory said this type of permit is not renewable. The only reason they are here is because they want to add an array to it, the existing tower. They are not physically altering the tower rather than to put the antennas on.

Chairman Fine said it used to be every time a new cell carrier come into town, they had to build their own tower, so instead of having towers all over town for different cell carrier, there was a law developed saying you know what, you want to build a cell tower you are going to try to collocate first on the ones that is existing.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a new special use permit for the existing wireless telecommunications facility was granted.

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

Mailings and sign certification in order.
James Polinsky of Signs Ink representing the applicant.

Memo from ABACA dated, February 3, 2022 states:
The application is for a variance request to allow signs as follows:

1. Sign A – Rear, North Elevation. The proposal is for 63.38SF sign where it does not front Crompond Road as shown in the renderings submitted.
2. Sign B – Side, East Elevation. The proposal is for 64.48SF sign where it does not front Crompond Road as shown in the renderings submitted.

During the meeting, there was discussion about moving the sign on the east elevation to the left for better visibility and balance to match the south sign. However, after visiting the site, the Board determines that the sign should remain centered as proposed.

The ABACA has no objections to the variance request and sign application based on the renderings submitted and attached.

Mr. Polinsky said the problem was everybody knows Starbucks, so as you come down the hill you saw the elevation here (showing a copy of the plans) where Trader Joe's logo was in the center, ABACA thought that maybe that it would be blocked by the neighboring building. I went back to the client and told them that. ABACA said we should move it to the left so as you come down the hill you would see it. They changed their mind when they went out, but that gave Trader Joe's another look at the sign and said hey we want to change the positioning of the sign to the new stacked rather than going with the horizontal layout, they wanted to go with the stacked logo. Same size letter, same everything but since they draw the rectangle differently the square footage went up and that is where the change came in at the last second.

Memo from the Planning Board dated, February 23, 2022 states:

The Planning Board, at its meeting on February 14, 2022, discussed the subject application for proposed signage on the Trader Joe's at the Lowe's Shopping Center and have the following comments:

1. The Board has no objection to the variances as requested, and subsequently modified to adjust the proposed sign over the front entrance; the Board reviewed both the original submission and the attached modification. In the shopping center setting, buildings often face into the interior of a center and the Board contemplated that signage would be necessary on additional facades during the Site Plan and Master Sign Plan approvals. The attached drawings will be added to the approved Master Sign Plan for the Lowe's Shopping Center.
2. The Board also noted that the awning on the south elevation of building facing Crompond Road, was installed shorter than was required in the approved site plans. The Planning Board worked hard with the applicant's architect to make this elevation of the building as pleasing as possible since it would be the rear of the building facing the main roadway. The Board asked that the applicant address this issue prior to the request for certificate of occupancy for the building.

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

In review of this request, I have no objections to granting relief of these variances.

Mr. Gregory said are the numbers correct in terms of the square footage that they are asking for.

Mr. Polinsky said the updated, yes.

Mr. Gregory said just to make sure that our records are correct, what are they.

Mr. Polinsky said there should be 2 signs at 79.78 sq.ft., and the east side would be the 63.38sq.ft.

Chairman Fine said the agenda only list 2 signs not 3.

Mr. Polinsky said we did not need a variance for the rear sign which is on Crompond Road.

Chairman Fine said there is a rear side and north side that is listed on the agenda.

The Board and Mr. Polinsky discussed the location of the sign.

Mr. Fahey asked if the sign that is on the side of the building going to be able to be seen from the Taconic.

Mr. Polinsky said probably.

Mr. Fahey said because is there not a rule from the Taconic about not being able to see signage. It is an historic sire and I believe that there is regulation about signage and what can be seen from the highway.

Mr. Gregory said I think they went through all of that when they went through the site plan.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance to allow a side sign of 63.38 sq.ft. where 0 sq.ft. is required on the east elevation and a rear sign of 79.78 sq. ft. where 0 sq.ft. is required on the north elevation and as per section 300-21 Appendix D of the Town Zoning Code. With the stipulation that the signs be built as per the renderings submitted.

Recording Secretary, Glenda Daly

Meeting adjourned at 7:30pm

Happy Zoning!