

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
MARCH 31ST, 2022**

The regular monthly meeting was held for the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, March 31st, 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, 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 28th, 2022. Mailings are to be sent from April 4th to April 13th, 2022.

NEW BUSINESS

MAYERHOFER #13/22 This is an application for a special use permit for a new accessory apartment.
Property Address:
273 Carolina Rd.
Section 48.11, Block 1, Lot 34

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.

ELIAZER #14/22 This is an application to legalize a 6' high fence in two side yards where a maximum of 4.5' is permitted as per 300-13F of the Town Zoning Code.
Property Address:
3761 Chesterfield Dr.
Section 15.08, Block 2, Lot 70

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.

HAXHARI #15/22 This is an application to legalize an enclosed porch with one side yard of 7.67' where 15' is required and two side yard 36.42' where 40' is required as per 300-21 and Appendix A of the Town Zoning Code.
Property Address:
877 Taconic Woods Rd.
Section 26.07, 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 March 31st, 2022, and referred to the Building Department.

JENNINGS #16/22 This is an application to allow construction of an addition of a garage and a deck where side yard variances are needed, one side is 8.5' where 15' is required and total of two sides is 22.3' 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:
79 Somerston Rd.
Section 17.10, Block 1, Lot 3

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.

HAXHARI #17/22 This is an application to reconstruct a single family dwelling damaged by fire. This is a non-conforming lot with 4 dwelling units with a lot area of 26,357 square feet where 15,000 square feet per dwelling unit totaling 60,000 square feet is required as per section 300-38 of the Town Zoning Code.

Property Address:
3764 Wood St.
Section 6.17, Block 1, Lot 7

The board asked legal counsel to review the application to see if a use variance was required. 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.

HODZA #18/22 This is an application for an addition to an existing garage with a second story bedroom with a side yard of 16' where 20' is required as per 300-21 and Appendix A of the Town Zoning Code.

Property Address:
525 Hilltop Rd.
Section 35.07, Block 2, Lot 20

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.

KAUFMAN #19/22 This is an application for a special use permit for a new accessory apartment.

Property Address:
1450 Maiden Ln.
Section 47.17, Block 1, Lot 17

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.

KAUFMAN #20/22 This is an application to construct an accessory apartment in a single-family home that requires a special use permit as per 300-38 of the Town Zoning Code and a variance for the accessory apartment that is 966 square feet where a maximum of 800 square feet is permitted as per 300-38 of the Town Zoning Code.

Property Address:
1450 Maiden Ln.
Section 47.17, Block 1, Lot 17

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.

GENAO #21/22 This is an application to allow construction of a front porch with a front yard setback of 23' where 30' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-10 zone.
Property Address:
3197 Parmly Ct.
Section 25.07, Block 1, Lot 23

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.

CLIFFORD #22/22 This is an application to allow the sub-division of an existing single-family lot into two non-conforming lots. One fronting on Central Street and one fronting on Summit Street.
Property Address:
1625 Central St.
Section 48.07, Block 2, Lot 28

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.

WALLACK FAMILY LTD #23/22 This is an application to allow construction of a new barn (accessory building) with a height of 30'2" where 15' is allowed as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-40/R-160 zone.
Property Address:
1549 Jacob Rd.
Section 36.13, Block 1, Lot 14

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

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

Chairman Fine said when last we met, the Building Department had a note that they could not inspect a certain portion of the premises. I understand the building department has inspected it. Memo from the Assistant Building Inspector, dated March 29, 2022 states: I made a follow up inspection on March 15, 2022 of the entire basement of 3570 Ellis St. and found an accessory apartment that has no building permits. This would be a second apartment where only one is allowed. I issued violation notice of the apartment as well as building code violation that I witnessed. At this time I cannot agree to allow this special use permit to be issued.

Chairman Fine said basically what he is saying is instead of 1 accessory apartment to inspect he found 2 apartments, and one of them obviously cannot exist because you are only allowed 1 accessory apartment to begin with, so a violation with the town was issued. Before we can consider any application you have to clear the other violation.

Mr. Shawarby said I understand that. On Monday I called the architect, he is going to come in and make the clarification that Mr. Fraietta had requested.

Chairman Fine asked if there is anyone in the audience has a comment.

Shawn Farrell, neighbor, came to the podium. He said we are opposed at my home, we bought the house, we wanted a nice area, we do not want to deal with tenants. Throughout the 5 years that I have been here, Mr. Shawarby had both illegal apartments going and we have had to deal with his tenants. There have been some that almost burnt his house down, I had to yell over to the guy to pull the BBQ away from the accessory apartment in the garage and there has been a few tenants that have been less than desirable, bordering on the creepy and "peeping tomish".

Chairman Fine said couple of months back, there were several neighbors here voicing similar complaints, and there are letters in the file saying similar things, we are aware of the complains.

Mr. Farrell said I have a young daughter, she is 7 years old, so it is a concern of ours.

Chairman Fine said one thing I want to make clear, not necessarily to you because you did not raise this as an issue, but other people raised the issue couple months back and I want to make sure we are clear on it. Some of the neighbors who were opposed were opposed to it in a sense that they thought it was changing the zoning of the property. Accessory apartments by law are only found in residential zones, that is the whole purpose of them, way back when it was to create affordable housing. I am just saying in general the application is not an application to re-zone, it is a special use permit which is permitted in a single family zone. Whether it meets the criteria is something else.

Chairman Fine asked if there was any other comments from anyone, no one responded.

Chairman Fine told Mr. Shawarby we cannot do anything with your application until at least you clear the violation.

Mr. Shawarby said I just want to clear for the record, this house my parents had bought way back in

the 70's and it was in their name, and then for about 12 years I took a job overseas as a professor in Morocco and I sold the house to some investor that had brought in very horrible people to live in the house. So all the complaints are absolutely true. When I came back from travel I realized that he had tenants he was evicting that he could not even evict. So I was able to buy the house and I went through the trouble of evicting them. One of the issue that was raised in the Zoom meeting was that some people said I do not live there, I do not exist there. I had to bring my wife and daughter to let them know. They were right, it was a time when the investor had brought lots of people there. I am a professor at the university, my wife is a teacher, my son is in West Point and my daughter is in Lakeland. I am not at all any image that were raised.

Chairman Fine asked do you live in the house now with your family.

Mr. Shawarby said yes, I live there.

Chairman Fine asked do you have any tenants.

Mr. Shawarby said no, I live in the house and my son comes every once in a while from West Point. The accessory apartment was actually legalized many years ago and renewed every three years and then I did not have a need for it because I used it as a study area, and now when I thought of having it and renew it, this is why I am applying again.

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 applicant can clear the violations.

VAUGHAN Property Address: 2722 Denby Dr. Section 26.16, Block 1, Lot 39	#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.
--	--------------	---

Mailings and sign certification in order.

Sharnett Vaughan present.

Ms. Vaughan said we are looking to create a little bit more living space in the kitchen, and with that we are putting in a new front entrance.

Chairman Fine said what is about the front entrance that requires a variance.

Ms. Vaughan said it is pushed out a little bit more

Chairman Fine asked is the new kitchen also requires a variance or is it only the steps.

Ms. Vaughan said we are extending the kitchen for more kitchen space.

Memo from the Assistant Building Inspector, dated February 18, 2022 states: I have inspected the property on February 17, 2022 and found no violations. I have no objection granting relief of all 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 was granted 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. With the stipulation it pertains only to the requested variances and not the remainder of the property line, and the addition and front entrance be built in substantial conformity to the plans submitted.

NEW PUBLIC HEARING

CANTONE #7/22 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
1818 Amazon Rd.
Section 25.11, Block 1, Lot 5

Mailings and sign certification in order.
Anne Cantone present.

Memo from the Assistant Building Inspector, dated March 25, 2022 states: I inspected this property on March 16, 2022 and found no violations. I have no objections to granting a renewal for a special permit.

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

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

Mailings and sign certification in order.
David Tetro, Architect, representing the applicant.

Mr. Tetro said we are putting a 2 car garage and a master bedroom addition onto an existing single family dwelling on a corner property. The question is side yard, front yard, 40ft. requirement. We are placing the addition onto the Somerston side of the house. We opted to put it on that side because putting the addition onto the left side of the house for a garage just does not make any sense, we would have to excavate down because it is somewhat of a split, we will have a lot of excavating to do. The existing garage is going to be turned into a weight room or family room.

Memo from the Assistant Building Inspector, dated March 24, 2022 states: I have inspected this property on March 18, 2022 and found a fence at approximately 5'6" in a front yard where 4'6" is allowed that will require a variance from the Town Zoning Ordinance 300-13F. I have no objections to granting relief for requested variance. The applicant will need a building permit and certificate of occupancy for this project.

Chairman Fine asked is the fence staying or going.

Mr. Tetro said actually I did not realize it was even an issue, not sure how we would do that from here, would we add that into this application.

Chairman Fine said we can add it in if you are keeping it, but we do not know if you are keeping it or not.

Mr. Tetro said I will have to ask and see. The fence is off the back of the house I believe.

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 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. 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, and the piece of the fence that is in violation has to be removed, however, the applicant

can reopen this application in front of us if it is decided that they want to keep that fence and apply for a variance for that fence.

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

Mailings and sign certification in order.

Janet Filangeri representing the applicant.

Memo from the Assistant Building Inspector, dated March 25, 2022 states: I inspected this property on March 18, 2022 with no violations found. I have no objections to renewal of this special permit. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for renewal of a special use permit for a professional office as per Section 300-76 of the Town of Yorktown Zoning Code was granted for a period of three (3) years.

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

Mailings and sign certification in order.

Michael Davis present.

Memo from the Fire Inspector, dated March 15, 2022 states: On March 7, 2022 I performed a fire and safety inspection at the Strawberry Early Childhood Development Center located at 1770 Strawberry Road, Mohegan Lake, NY. During my inspection I found no deficiencies and all was in good order. The facility has always been well taken care of and I have no objections to renewing their special permit.

Memo from the Assistant Building Inspector, dated March 25, 2022 states: An inspection was made by the Fire Inspector and he found no violations. I have no objections to granting a renewal for a special permit for this facility.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for renewal of a special use permit for the Day Care Facility per 300-52 of the Town of Yorktown Zoning Code, was granted under the same conditions as the previous permit for a period of three (3) years.

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

Mailings and sign certification in order.

Joel Greenberg, Architect, representing the applicant.

Memo from the Assistant Building Inspector, dated March 24, 2022 states: I have inspected this property on March 18, 2022 and found no apparent violations. I have no objections for issuing a

special permit. The applicant will need a building permit and certificate of occupancy for this project. Chairman Fine asked, the proposed accessory apartment is how many square feet? Mr. Greenberg said it is just under what the code requires about 790 square feet. Chairman Fine asked, parking for how many cars? Mr. Greenberg said if you look at the site plan there is parking for at least 6 cars. Chairman Fine asked, is the main dwelling owner occupied? Mr. Greenberg said yes, the owner of the house is moving into the accessory apartment and the daughter and her family will be moving into the house, so it will all be in the family. 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 to allow construction of an addition for an accessory apartment as per 300-38 of the Town Zoning Code was granted for a period of three (3) years.

SLICE PIZZA #12/22 This is an application to allow a sign of 37.675 square feet where
Property Address: 25 square feet is allowed on the south elevation as per 300-21
3200 Crompond Rd. Appendix D of the Town Zoning Code.
Section 26.18, Block 1, Lot 18

Mailings and sign certification in order.
Michael Grace, Attorney, representing the applicant.
Mr. Grace said this is a request for a little bit larger sign that otherwise would be allowed. Nobody has had any objections to it, ABACA, Planning, all the relevant powers to be are okay with it.

Memo from the Planning Board, dated March 17, 2022 states: The Planning Board, at its meeting on March 14, 2022, discussed the subject application for a variance to allow a sign that is 37.675 square feet where 25 square feet is allowed. The Board had no objections to the variance as requested.

Memo from ABACA, dated March 2, 2022 states: The Advisory Board on Architecture and Community Appearance reviewed the above referenced subject at their Board meeting held on Tuesday, March 1, 2022.
The application is for a variance request to allow for a sign (south elevation facing Crompond Road) that is 37.765 SF where 25SF is allowed.
The ABACA has no objections to the variance request and sign application based on the renderings submitted.

Memo from the Assistant Building Inspector, dated March 25, 2022 states: I inspected this property on March 18, 2022 with no violations found. I have 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 as granted 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. With the stipulation that the sign be constructed per the renderings submitted.

Recording Secretary, Glenda Daly
Meeting adjourned at 7:22pm
Happy Zoning!