

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
JANUARY 26TH, 2023**

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, January 26th, 2023. The meeting began at 6:30 p.m.

The following members of the board were present:

William Gregory
Robert Fahey
John Meisterich
Anthony Tripodi

Also present is Adam Rodriguez, Special Counsel, Steven Fraietta, Assistant Building Inspector, and Nisreen Khoury.

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 23rd, 2023, site visits are scheduled for February 18th, 2023. Mailings are to be sent from January 30th to February 8th, 2023.

NEW BUSINESS

MENDOZA #1/23 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
1824 Hanover Street
Section 37.19, Block 3 Lot 32
Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Meisterich, and Tripodi, this item will be handled administratively.

VUKAJ #2/23 This is an application for an addition that will require a variance for a front yard setback of 24.98 ft where 30 ft is required as per section 300-21 and Appendix A of the town Zoning Code
Property Address:
3838 Kent Lane
Section 27.10 Block 2 Lot 15
Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on February 23rd, 2023, Site Visit on February 18th, 2023, and referred to the Building Department.

BISACCIA #3/23 This is an application for a renewal of a special use permit for an accessory apartment
Property Address:
2501 Dunning Dr
Section: 27.18 Block 1 Lot 19
Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Meisterich, and Tripodi, this item will be handled administratively.

LUMI #4/23 This is an application for a renewal of a special use permit for an accessory apartment
Property address:
2226 Crompond Rd
Section: 37.09 Block: 1 Lot:

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

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:
1681 Summit St.
Section 48.07, Block 2, Lot 9

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

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 Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Meisterich, and Tripodi, this item is adjourned as requested.

ELEZAJ #39/22 This is an application to legalize three (3) accessory apartments in a single-family home with an existing non-conforming cottage making the total of four (4) dwelling units in a single-family district.
Property Address:
1658 Amazon Rd.
Section 25.12, Block 2, Lot 32

Chairman Meisterich said my recollection of the last hearing is we were going to do further research on the property of the history we are having trouble finding that so hopefully you can update us on what has occurred since the last meeting.

Mr. Elezaj said I'm truly trying to be a good neighbor. I went through a very lengthy process over the past year and I think I've done almost everything and anything that has been asked of me including architects, engineering, spoke with the Planning Department searching records as Steve from the Building Department knows as well the property doesn't have a certificate of occupancy and my attempts to legalize the property when I acquired the property was truly my intention, and the only thing based on the information that we were able to pull up and I think you know it is safe to say that most people know this, the tax assessment card which shows that there are 3 units at the property the main house, I believe I highlighted it for everyone, they may now show that there was an apartment in the main house that was rented and the cottage. The cottage was rented, which means that the owner occupant at the time occupied one unit, the other unit was rented and the cottage unit was rented. I would like to point out just a few things that I think you are also aware there is multiple meters at the property, there's multiple septic tanks at the property, there are 3 curb cuts for driveways, it is a huge, and it's an oversized lot. It is 1.3 acres, a separate structure which is the garage, the main house which is the one in question and then obviously the cottage. The property from what I have been able to gather thus far and from what the title report shows that the properties were constructed in 1940. I have not done anything to the property other than cosmetically improve the property. I applied for the electrical permits to upgrade the electric, and the main house, the cottage has its own separate meter. These are the points that you know obviously speak for themselves, but other than that there is no additions, there is no additional structures being built. I have done a ton of landscaping work because the Building Department required it, as per I believe, the Highway Department. Again, just trying to be a good neighbor, I am cleaning up the corner lot that has been deprived for countless decades and other than that there is not much more that I could possibly prove to the Department, to you folks as well. I made every attempt to obviously

abide by the steps that needed to be taken through the application process I have done everything I believe thus far that I have been able to do, and try to uncover as much information as I have been able to uncover, and the only thing that we really have to go on is on the assessment card, which shows that a unit is rented in the main house and the cottage unit, which leaves us basically 3 units. I believe that what we were originally asking for in terms of the 4 units I believe was a major issue or sticking point, but if you look at even the comparable in the neighborhood there is a property for sale which is 1802 Amazon, listed currently which is a legal 3-family property, which is less than a quarter mile away from the property so it is not uncommon. There are properties in the immediate area that are multi-unit properties we are not adding any additional units, we are not building any new structures, and again it is an oversized lot that does have 3 curb cuts for driveways that are paved by the way, and separate, and also separate septic tanks. I even went to the extent of in the event that there was a department of health issue I went to the extent of speaking to the gentleman at the Planning Department, John Tegeder, he said the path of least resistance if I cannot pull up the department of health records, was connect directly into the sewer line which is right on the street on Macau it is literally right there. There is a manhole right there, the department also marked where we can tie directly into the sewer in the event that was a health department issue. Chairman Miesterich said okay, this is not new information, we did have a copy of the assessor card to say apartment rented out in main house, cottage rented out so that is 1 apartment in the main house.

Mr. Gregory said the last time that we were here together, you were going to check and see if you could find any historical records from the Building Department.

Mr. Elezaj said we checked, Steve and I checked.

Mr. Fahey said there is nothing on record in the Building Department. There is no certificate of occupancy on this property.

Mr. Fraietta said no.

Mr. Gregory said and the other thing was that you were going to check with the Board of Health for records in terms of the septic system.

Mr. Elezaj said those were requested in September and we have not heard back yet

Mr. Gregory said you have not heard back yet, so absent the not hearing from the Board of Health basically what we are hearing is that there are no records of anything in the Building Department.

Mr. Elezaj said it is not that there is necessarily not any records, they have not responded to us yet.

Mr. Fraietta said I searched all records that I know of there in the Building Department for anything that relates to this property for being a multi-family property, we could not find anything on it. The only thing we all can go by what the assessor saw when they originally went out, and it was a 1-family house and the cottage. The other items were listed later on, from what the assessor had seen if they went out and did their inspection and saw the units that popped up over the years. The permits that were taken out by the previous owners are all there.

Mr. Gregory asked there was no building permits listed on the assessor records?

Mr. Fraietta said no. There are some building permits, but they are recent ones.

Mr. Fahey asked nothing from the original construction?

Chairman Meisterich said it says 1964 remodeled house with no permit.

Mr. Tripodi asked when was the original structure put on the property?

Mr. Fraietta said to the best of our knowledge, he found that out, I guess in the 1940s.

Mr. Fahey asked where did you find that information?

Mr. Elezaj said on the title report.

Mr. Fahey asked did you bring that information?

Mr. Elezaj said I submitted all that information. This has been very challenging and very difficult. I am a very transparent person and I feel that I have done all I can possibly do at this point. I understand there are additional options for us to further try to possibly uncover some additional information.

Mr. Gregory said are you indicating there is a possibility you can uncover additional information.

Mr. Elezaj said no, what I am seeing is if there is other options, if there is any other possibilities I am willing to do whatever it takes to try to further dig into any additional information we can find, but I feel we have done as much as we possibly can do, and the only thing that is noted is what is on the Assessor's card. I believe on the card it shows a diagram of possibly additions on there, it is not necessarily as legible as it can be but again, these are structures that have been there for 82 years now.

Mr. Gregory said and basically even if you look at the Assessor's record and they do indicate more than one dwelling unit on the property, there is not five indicated on the assessor's record.

Mr. Elezaj said I am not sure what you mean by that.

Mr. Gregory said what you are asking for is to have a total of five dwelling units on the property.

Mr. Elezaj said no, 3, just what is on the assessment card at this point.

Mr. Gregory asked the application was for what?

Mr. Elezaj said 4.

Mr. Tripodi said at this point we have everything that is going to be submitted.

Mr. Elezaj said I am ready to engage in new attorney at this point. David is working on larger projects.

Mr. Fahey asked do you want to proceed at this point or do you want to stay adjourn until you have benefit of counsel.

Mr. Elezaj said here is what I am essentially asking, as is, if it is 3 units it is 3 units, scratch the fourth unit and I will call it a day. I think honestly at this point I believe it is a fair compromise for what we have been able to uncover. We are not asking for anything in addition. There is a comp right down the road the property is actually listed for sale, it is a three family there is multiple properties that we were able to uncover also that are multiple unit properties.

Mr. Gregory said so you do not think you are going to submit any additional information other than what we already have.

Mr. Elezaj said I am prepared to engage other Council if that is what I need to do. Essentially what I am asking for at this point, it is a fair compromise, simply for the sole fact that all I am doing is I am improving the corner, I am improving the lot, I am improving the community. The property has been deprived for decades. If you have taken a look even from the cosmetic work that I have done the property looks a lot better ultimately what it used to. Ultimately at the end of the day what we have on the tax assessment card reflect obviously somebody had to live in there because it was an owner occupied unit, it is noted that there was an apartment rented in the main house and that the cottage was also rented. So, at this juncture if it is 3 units, I will call it today and just wave the flag.

Mr. Fahey asked are you going to live at this location?

Mr. Elezaj said the intention initially was not to live at this location, my parents live close by but this juncture I do not have the intention of living there personally.

Mr. Fahey said so you want to have a fully rented property with no landlord on premises.

Mr. Elezaj said the idea from what I said previously, my father is downsizing he was going to live in the cottage.

Chairman Meisterich said it is another part of the variance we would have to approve, none owner occupied accessory and we discussed that a lot last time. It would be a precedent setting move that would affect many potential applicants and we are very reticent to approve something like that.

Mr. Elezaj said this is going to be a family oriented property, I am telling you as honestly and as transparent as I can possible tell you, it is not being rented out to singles. The yard is big enough where I was actually going to put picnic tables and even a kids swing set to attract families to be able to live there. The idea was not to have a lot of turn over, to have somebody that was going to stay there, somebody even within the community.

Chairman Meisterich said let us say all that is true and you have the perfect tenants and everything else, if we were to approve non-owner occupied there is like 1000 accessory apartments in this town, and every one of those applicants would have a justification to us to say is it going to be non-owner occupied and rent both sides, and suddenly the nature of our entire town changes to 2-family

rentals. That is why it would be very difficult for us to approve it. It has nothing to do with you personally or any of that, so that is one major issue.

Mr. Fahey said your intentions are all good, but if we were to approve this, what you are asking, you could sell that property tomorrow and now we have an absentee landlord situation, and like was previously explained, the town does not want to get involved with that. That is kind of where we are at. Mr. Elezaj said how about a probationary period.

Chairman Meisterich said our special use permits are by definition probationary because they only last for 3 years.

Mr. Elezaj said give me a chance, we can do an annual review I am happy to do so, you are more than welcome to do site visits. Everything that I am doing there is to improve the neighborhood.

Mr. Tripodi said at this point, you consider the application to be fully submitted.

Mr. Gregory said I guess the question he is asking is there anything more that you can basically submit pursuant to this application.

Mr. Elezaj said I do not know, I am not an attorney so I would possibly engage one.

Mr. Fahey said so probably you would want to talk to your attorney before you decide which you want to go with this. Were we lead to believe that you have an engineer that is trying to solicit information about the septic system that is on that property.

Mr. Elezaj said correct, it was requested back in September.

Mr. Fahey said so we have heard nothing from them.

Mr. Elezaj said we have not heard anything from them, I spoke with Mr. John Tegeder.

Mr. Fahey said that is not the reason we are asking. The reason we are asking is to identify whether this was legally set up as a 3-family house. Right now we have no record. There is no certificate of occupancy on the property and we have nothing to indicate there is, and we are looking for an alternative. If we cannot find information regarding a certificate of occupancy, we are looking for information perhaps that the septic system was approved for 3 families and would be on record with the county, so we are looking at an alternative. Without that information we have no record that this property is an approved property. That is our problem, we are trying to figure out, we are trying to accommodate you but without anything we are not going to do it blindly.

Mr. Elezaj said just the basis of the tax assessment card which noted that.

Mr. Fahey said the tax assessor's card show you from 1962 to present, you are saying it was there since 1940 and there is no record. You have 3 buildings on the property and there is not a scrap of evidence that there was any type of certificate of approval. This could have been built illegally, we do not know, we have no idea, and we are asking for you to demonstrate that this is what we got. We have looking for alternatives, we have given you other options that you could proceed and perhaps satisfy the requirements. We got nothing right now, how can we approve something if we do not have that information.

Mr. Elezaj said I have engaged the Engineering Department, we have engaged the Health Department, engaged the Planning Department, again in order to accommodate in the event that there is any sort of health issues.

Mr. Fahey said did you hear what I said, it is not about accommodating what you want to do because that can be done. We are looking to establish when it was a legal thing to do in the first place. You might only have one septic tank on the property.

Mr. Tripodi said at this point you may want to consider requesting an adjournment, consult with counsel and realigning your position because now you are going from a 4-family occupancy down to 3. There may be some procedural issues we got to deal with as well and you may have to do more mailings, but I extremely advise that you consult with counsel and once again supplement the application and possibly revise and amend it.

Chairman Meisterich asked Mr. Gregory is there anything with other houses, the applicant mentioned other houses that have legal 3-family, it is not 3-family zone.

Mr. Gregory said there is obviously in that area, houses that are basically what they call legal non-conforming, because a lot of Mohegan was developed before 1932, so yes there are legal non-

conforming lets and quite frankly there are also probably illegal dwellings units on the property. That is not something that basically lends itself to an argument for a particular application.

Mr. Gregory asked if anyone has a comment on the application.

No one responded.

Mr. Gregory said if I am not mistaken, the Board is basically saying if you have any other information that you can supply to us, or if you desirous of engaging new counsel in this, that is fine. We can adjourn the application or alternatively if you do not think that you are going to be able to come up with anything then we are probably going to close and reserve. So that is something we can offer you as an option, let us know what you want to do.

Mr. Elezaj said so you are saying to resubmit the application.

Chairman Meisterich said we would adjourn this hearing and if you wanted to change your application

Mr. Gregory said at this juncture I do not think it is going to make much of a difference, basically we are still looking for some kind of justification for multi-family dwelling on a piece of property that has been zoned 1-family since 1932. At the end of the day, whether it has been a 3-family or 4-family house, we still have to make a determination of some type of whether the thing had any legality whatsoever or whether it was done illegally to 2-family or 3-family or something like that. We have already said that the accessory apartment law does not really apply here, that is something what they are asking for. They are asking in my mind for a use variance, which is extremely difficult to get, but unless we have some justification for any of this stuff, and obviously the applicant have not been able to come with anything yet, but we can offer the option of you continuing to look at least for another month to see if you can come up with anything. If that is something you are desirous of, we can adjourn.

Mr. Elezaj said I am happy to do so, I will give it another shot.

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

ELEZAJ #40/22 This is an application to allow two (2) primary structures on a lot where one (1) is permitted as per section 300-21C(1)(a)[1], to allow a combined floor area of 3 accessory apartments of 1835 square feet where 800 square feet accessory apartment is permitted as per section 300-38B(5), to allow usage of property that is not owner occupied as per section 300-38B(8), and to allow four (4) accessory apartments where one (1) is permitted in a R1-40 zone as per section 300-38B(9).
Property Address:
1658 Amazon Rd.
Section 25.12, Block 2, Lot 32

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

O'DONNELL #51/22 This is an application to allow a 6'6" fence located in the front yard where 4'5" is permitted as per section 300-13F and Appendix A of the Town Zoning Code.
Property Address:
1405 Turus Ln.
Section 16.17, Block 1, Lot 48

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

ALIHAJDARAJ #54/22 This is an application to allow a fence with a height of 6.6 ft. in the front yard where 4.5 ft. is permitted as per section 300-13F of the Town Zoning Code.
Property Address:
830 Barberry Rd.
Section 26.12, Block 1, Lot 14

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

KURTI #57/22 This is an application to construct a new single-family residence with a lot area of 5,000 sq. ft. where 20,000 sq. ft. is required and lot width of 30ft. where 50ft. is required as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
1655 Central Avenue
Section 48.07, Block 2, Lot 31

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

NEW PUBLIC HEARING

TACO BELL #53/22 This is an application to allow a sign of 9.5 sq. ft. where 0 sq. ft. is required on the South elevation and a sign of 34.7 sq. ft. where 0 sq. ft. is required on the West elevation as per section 300-21 Appendix D of the Town Zoning Code.
Property Address:
3571 Mohegan Ave.
Section 15.16, Block 1, Lot 21

Mailings and sign certification in order.

James Polinsky of Signs Ink representing the applicant.

Mr. Polinsky said id facing Route 6, they are doing white channel letter sign with the bell logo, similar to what was done on Route 202. The ones we are here for is for the rear of the building where they are looking to do a channel letter sign as well, it is a smaller sign.

Mr. Gregory asked is it the one that is 9 square feet.

Mr. Polinsky said yes.

Memo from ABACA, dated January 23, 2023, cited no objections.

Memo from the Planning Board, dated January 9, 2023, cited no objections.

Memo from the Assistant Building Inspector, dated January 18, 2023, cited no objections.

The Board discussed the application and applied the statutory factors.

Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Meisterich, and Tripodi, the application for a variance was granted to allow a sign of 9.5 sq. ft. where 0 sq. ft. is required on the South elevation and a sign of 34.7 sq. ft. where 0 sq. ft. is required on the West elevation as per section 300-21 Appendix D of the Town Zoning Code.

BISAGNA #55/22 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
586 Madison Ct.
Section 37.90, Block 1, Lot 2

Mailings and sign certification in order.

Memo from the Assistant Building Inspector, dated January 19, 2023, cited no objections.

Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, 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.

CHARNIS #56/22 This is an application for a renewal of a special use permit of the storage of a commercial vehicle on a residential property as per section 300-62 of the Town Zoning Code. This property is located in a R1-20 zone.
Property Address:
2248 Edward Ln.
Section 36.11, Block 1, Lot 5

Mailings and sign certification in order.

Julian Charnis present.

Memo from the Assistant Building Inspector, dated January 18, 2023, cited no objections.

Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, 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.

Meeting adjourned at 7:15pm
Happy Zoning!