

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS  
SEPTEMBER 14<sup>TH</sup>, 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, September 14<sup>th</sup>, 2023. The meeting began at 6:30 p.m.

The following members of the board were present:

Gordon Fine, Chairman  
Robert Fahey  
William Gregory  
John Meisterich  
Anthony Tripodi

Also present are Nisreen Khoury, Legal Assistant, and Steven Fraietta, Assistant Building Inspector

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

It was announced that the next public hearing would be held October 26<sup>th</sup>, 2023, site visits are scheduled for October 21<sup>st</sup>, 2023. Mailings are to be sent from October 2<sup>nd</sup> to October 11<sup>th</sup>, 2023.

**NEW BUSINESS**

**MILES OF SMILES #29/23** This is an application for a special use permit to allow a child care facility, Miles for Smiles, for approximately 51 children to occupy a tenant space in the Lourdes Shopping Center.  
**Property Address:**  
**363 Hill Blvd**  
**Section 16.08, Block 1, Lot 1**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on October 26<sup>th</sup>, 2023, Site Visit on October 21<sup>st</sup>, 2023, and referred to the Building Department, Planning and Fire Marshal.

**ORELLANA #30/23** This is an application for a special use permit to construct a new accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.  
**Property Address: 748**  
**Locksley Rd**  
**Section 26.20, Block 1, Lot 33**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on October 26<sup>th</sup>, 2023, Site Visit on October 21<sup>st</sup>, 2023, and referred to the Building Department.

**RIZZO #31/23** This is an application to construct a spiral staircase off the rear deck with a setback of 1.25 ft where 10 ft is required as per 300-21 of the Town Zoning Code. A previous variance #39/20 was granted for the existing deck.  
**Property Address: 3443**  
**Lakeside Dr**  
**Section 15.16, Block 2, Lot 39**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on October 26<sup>th</sup>, 2023, Site Visit on October 21<sup>st</sup>, 2023, and referred to the Building Department.

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

**BLACK MOUNTAIN CAPITAL #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**  
Application withdrawn by the applicant.

**BLACK MOUNTAIN CAPITAL #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).

Application withdrawn by the applicant.

**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**

Application withdrawn by the applicant.

**ALEXANDRE #20/23** This is an application to allow a chicken coop in a front yard (yard was determined by a previous variance #80/93) that will require a variance of 30 sq ft where 40 ft is required and a lot size of 20,226 sq ft where 40,000 sq. ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**2107 La Voie Ct**  
**Section: 37.09 Block: 1 Lot: 2**

Nuno and Noelia Alexandre present.

Chairman Fine said you were here a couple months back and you had to submit plans, which you did. I would note from the plans you are putting up a fence, but the fence on the plans does not

indicate the height of the fence.

Mr. Alexandre said there was a fence on the back yard, which is the front yard, 8ft. high. I took it down because it was damaged and I was going to replace it at the same height.

Chairman Fine said in the front yard you are saying, because the front yard you are allowed 4.5ft.

Mr. Alexandre said it is the same one my neighbor has.

Chairman Fine said it does not matter that your neighbor has the same one, if it needs a variance, it needs a variance.

Mrs. Alexandre said we can adjust the height.

Chairman Fine said you may want a higher fence, the front yard, that faces Route 202. So you may want a higher fence, not telling you you should put a lower fence. I am saying if you want a higher fence you should ask for a variance for it. It may be more appropriate than a 4.5ft fence, you just cannot do it without the variance.

Mr. Alexandre said it should be 6ft. link fence.

Chairman Fine said so you want a 6ft. fence in the front yard facing Route 202.

Mr. Alexandre said yes.

Chairman Fine said a couple months back the Building Inspector had noted that there something with the front porch that needed repair, has that been take care of.

Mr. Alexandre said no, I did not.

Chairman Fine said because that was in violation of the building code.

Mrs. Alexandre said we are in the process of getting quotes from different carpenters to get that taken care of.

Mr. Alexandre asked it was electrical, right.

Mr. Fraietta said yes, it was an electrical issue and plus the structure itself was not, in my opinion, not stable. It needs to be addressed.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, the application for a special use permit was granted to allow a chicken coop in a front yard (yard was determined by a previous variance #80/93) that will require a variance of 30 sq ft where 40 ft is required and a lot size of 20,226 sq ft where 40,000 sq. ft is required as per section 300-21 and Appendix A of the Town Zoning Code, as well as a 6ft. fence in the front yard that faces Route 202, no roosters permitted, and that this permit will be issued subjected to the front porch being brought into code, and be built with screening and maintenance plan as per the plans submitted. The special use permit is good for three years.

**MCNAMEE #25/23** This is an application to allow a 6' vinyl fence in a front yard  
**Property Address:** where 4 ft 6 in is permitted as per section 300-13F of the Town  
**2784 Holly Street** Zoning Code.  
**Section 26.16, Block 1, Lot 27**  
Requested adjournment by applicant.

### NEW PUBLIC HEARING

**BOGA #21/23** This is an application for a renewal of a special use permit for an  
**Property Address:** accessory apartment  
**3747 Briarhill St.**  
**Section 15.08, Block 2 Lot 3**  
Mailings and sign certification in order.  
Memo from the Assistant Building Inspector, dated September 8, 2023 states:  
I inspected this property on August 23, 2023 and found no violations. I have no objections to granting special permit renewal.

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

**ABRAMS #22/23** This is an application for a renewal of a special use permit for an accessory apartment  
**Property Address:**  
**3461 Sagamore Ave.**  
**Section 15.16, Block 2 Lot 12**  
Mailings and sign certification in order.  
Memo from the Assistant Building Inspector, dated September 8, 2023 states:  
I inspected this property on September 7, 2023 and found no violations. I have no objections to granting special permit renewal.

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

**DUENAS #23/23** This is an application to construct a new front portico that requires a front yard setback of 36.44 ft where 40 ft is required as per 300-21 and Appendix A of the Town Zoning Code. This property is in a R1-20 zone. A building permit and a Certificate of Occupancy will be required.  
**Property Address:**  
**3873 Eleanor Dr.**  
**Section 15.08, Block 1, Lot 16**

Mailings and sign certification in order.  
David Tetro, Architect, representing the applicant.  
Mr. Tetro said we have an existing front stoop of a house. They are enclosing half of the front stoop as part of the vestibule, which we got a permit for already, so the other half of the front stoop we want to put an overhang with some columns and that would kick it into the front port required setbacks.  
Memo from the Assistant Building Inspector, dated September 8, 2023 states:  
I inspected this property on September 5, 2023 and found no apparent violations. I have no objections of granting the variance. A building permit and a Certificate of Occupancy will be required.

The Board discussed the application and applied the statutory factors.  
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, the application for a variance was granted to construct a new front portico that requires a front yard setback of 36.44 ft where 40 ft 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 new portico be built in substantial conformity to the plans submitted.

**HOFFMAN #24/23** This is an application for a renewal of a special use permit for an accessory apartment.  
**Property Address:**  
**3808 Old Crompond Rd.**  
**Section 38.08, Block 1 Lot 32**  
Mailings and sign certification in order.  
Memo from the Assistant Building Inspector, dated September 8, 2023 states:  
I inspected this property on September 7, 2023 and found no violations. I have no objections to granting special permit renewal.

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

**SVENJAK #26/23** This is an application to legalize a shed with a side yard of 3'6" where 10 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**264 Fox Croft Lane**  
**Section 17.10, Block 1, Lot 88**

Mailings and sign certification in order.

Nora Hildinger representing the applicant.

Ms. Hildinger said we are here to request a variance for a shed. The shed is 13'x9' or 177 square feet. The shed is in the back portion of the rear yard. The shed is 3'6" off the property line, it has been there for over 25 years.

Memo from the Assistant Building Inspector, dated September 8, 2023 states:

I inspected this property on September 5, 2023 and found a fence 6 ft in height installed on the side and front yards where 4' 6" is allowed as per 300- 13F and will require a variance or other remedy. I have no objections of granting the variance for the shed. A building permit and a Certificate of Occupancy will be required.

Chairman Fine said the Town recently adopted new fence law that permits 6ft. in the side and rear yard but not in the front. The front is still 4.5ft. So, I am going to add the front yard fence of 6ft. where 4.5ft. is required to the application.

Ms. Hildinger when through the five (5) factors.

John Reynaldos, new owner of the property said I just want to second the request for the variance because it in a tucked away spot, looks like it has been there for a long, long time.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, the application for a variance was granted to legalize a shed with a side yard of 3'6" where 10 ft is required, and to legalize a front yard fence with a height of 6ft. where 4.5ft. is the max. With the stipulation it pertains only to the requested variances and not the remainder of the property line.

**IQBAL #27/23** This is an application for a building permit to construct an addition that will require the following variances: side yard setback of 13' 6" ft where 15 ft is required, a combined yard variance of 33' 6" ft where 40 ft is required and a rear yard setback of 33' 6" ft where 40 ft is required. This property has a non-conforming lot area of 13,137 sq. ft where 20,000 sq. ft is required as per section 300-21 and Appendix A of the Town Zoning Code  
**Property Address:**  
**2800 Sarles Dr**  
**Section 27.10, Block 3, Lot 32**

Mailings and sign certification in order.

Paola Rodriguez representing the applicant.

Ms. Rodriguez said this application is for interior renovations and horizontal enlargement of an existing one-family house. So basically what we are doing is taking 1,198sq.ft. and we are turning one-family house into 2,480sq.ft. which we requested some variances for on the back yard. I have an understanding that there has been some concerns about that, that is why we applied for that. We have right now four (4) bedrooms, one (1) kitchen, one (1) living room, single family house. The idea of this is to be sold to one family not to be rented out.

Chairman Fine said this house looks like it was originally a trailer not a house per say, it has that look to it.

Ms. Rodriguez said from construction perspective we do have some concrete foundation and wood truss on the existing crawl space that is what we have right now.

Chairman Fine said because from looking at the house it looks like it should be a tear down as appose to just building an addition.

Ms. Rodriguez said I understand that and when we made the original inspection, we thought that at first, however, I know the fact that the house has abandoned for a while, the owner has been paying taxes for a while on that, he really wants to make on one hand the most out of what we have right now, which is the foundation can be saved since it is made out of concrete and then we have the wood truss.

Ms. Rodriguez discussed the plans for the property.

Chairman Fine said once you start opening up those walls, do you think you will be able to bring the building up to code.

Ms. Rodriguez said yes.

Mr. Fahey said with the electric and plumbing and all that is involved.

Ms. Rodriguez said yes, basically we are just going to keep 30ft. on the front façade and 30ft. on the side yard for the walls, of course we will have to open and remove cabin insulation, we will have to create continuous insulation. There is a lot of work to do on the portion that we are going to keep, but then again we are going to make sure that everything is bring up to code and whatever has to be replaced, has to be replaced. One thing for the mechanical, electrical and plumbing portion of the job, we are going to be bringing central air. I understand that house has sewer line which is where we are going to be connecting.

Chairman Fine asked is there septic there now?

Ms. Rodriguez said yes.

Chairman Fine said so you are going to remove the septic.

Ms. Rodriguez said yes.

Ms. Rodriguez discussed the utilities and the layout of the addition.

Chairman Fine said what is the addition that you are putting up, where is the addition going and what is going in that.

Ms. Rodriguez said bedrooms, three (3) bedrooms.

Chairman Fine asked where is that going to be in the house, what part of the house is that?

Ms. Rodriguez said that is going to be north east, left and back.

Mr. Fahey asked is that old carport that is on the right-hand side, is that coming out, what are you doing?

Ms. Rodriguez said yes, all of that is coming out.

Mr. Fahey said and that would be from the plans, you are going to expand into that area for living space.

Ms. Rodriguez said yes, that is just going to be living space.

Chairman Fine said you are also looking to put in a shed.

Ms. Rodriguez said no, there is an existing shed which is going to be removed. The only thing we are keeping in the back is the garage, which is there right now.

Chairman Fine asked the free-standing garage or a garage that is already attached to the house.

Ms. Rodriguez said it is already there.

Chairman Fine said I though there was a garage door but it is barely a garage.

Ms. Rodriguez said we will have to make some adjustments again to bring it up to code.

Mr. Fahey asked what is the square footage of the existing house now?

Ms. Rodriguez said 1,168sq.ft.

Mr. Fahey asked and the new house is going to be what?

Ms. Rodriguez said the total is going to be 2,480sq.ft., we are going to keep it one story.

Mr. Meisterich said so the addition is not going to have a basement either then.

Mr. Rodriguez said no, the crawl space is going to remain a crawl space, no usage.

Mr. Meisterich said on the plans it says new garage, I take that that you are basically demoing the existing garage pretty much?

Chairman Fine said the garage you want to keep in the back there would also need a variance too

because it is almost right on the property line.

Ms. Rodriguez said okay.

The Board discussed the matter of the garage with Ms. Rodriguez.

Chairman Fine asked if there were any comments.

Randy Paolucci, neighbor, discussed her concerns, including the house being closer to her property and the history of the property.

Diego Naruez, neighbor, said he was under the impression the house was larger, and he was not sure about the new garage, do not think there is anything there.

Chairman Fine told Ms. Rodriguez I suggest and it is up to you, that we put this off until next month so you could re-notice just for the garage and then submit more detail plans for the garage so we know what we are looking at. But keep in mind what the neighbors are saying because obviously number one in our mind when we look at zoning application, is can the applicant accomplish what they want to do any other way without infringing on the setback like making closer or something.

Chairman Fine asked is that what you want to do, move this to next month.

Memo from the Assistant Building Inspector, dated September 8, 2023 states:

I inspected this property on September 5, 2023 and found no violations. I have no objections to granting the variances. This application will require a building permit and a Certificate of Occupancy.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, the application was adjourned.

**SCHILSKY #28/23** This is an application to construct a tennis court which requires a front yard variance of 38 ft. where 75 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.

**Property Address:**  
**815 Old Kitchawan rd**  
**Section 17.09, Block 1, Lot 20**

Mailings and sign certification in order.

Lawrence Schilsky present.

Mr. Schilsky said the application is to have a variance so I can put a tennis court on my land, and asking for a partial variance. It is a very quiet neighborhood and I do not think I am going to be interfering with anyone.

Chairman Fine asked how much land is there?

Mr. Schilsky said it is 1.8 acres.

Memo from the Assistant Building Inspector, dated September 8, 2023 states:

I inspected this property on September 5, 2023 and found no violations. I have no objections to granting the variances. This application will require a building permit and a Certificate of Occupancy.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, Meisterich, and Tripodi, the application for a variance was granted to construct a tennis court which requires a front yard variance of 38 ft. where 75 ft is required as per section 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 be constructed in substantial conformity to the plans submitted.

Meeting adjourned at 7:40pm

Happy Zoning!