

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS  
DECEMBER 7<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, December 7<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

Also present are Adam Rodriguez, Special Counsel and Nisreen Khoury, Legal Assistant.

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

It was announced that the next public hearing would be held January 25<sup>th</sup>, 2024, site visits are scheduled for January 20<sup>th</sup>, 2024. Mailings are to be sent from January 2nd to January 10<sup>th</sup>, 2024.

**NEW BUSINESS**

**FAIVRE #38/23** This is an application for a renewal of a special use permit for accessory apartment.  
**Property Address:**  
**1420 Troutbrook St**  
**Section 48.14, Block 1, Lot 44**

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

**GUMMERSON #39/23** This is an application to construct a third story addition with a rear yard setback of 8.74 ft where 30 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**3495 Hillside St**  
**Section 15.16, Block 2, Lot 27**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on January 25<sup>th</sup>, 2024, Site Visit on January 20<sup>th</sup>, 2024, and referred to the Building Department.

**CORCORAN #40/23** This is an application to construct a a deck and stairs that require a rear yard setback of 6.12 ft where 30 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**1755 Paine St**  
**Section 37.19, Block 1, Lot 54**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on January 25<sup>th</sup>, 2024, Site Visit on January 20<sup>th</sup>, 2024, and referred to the Building Department.

**INTERSTATE SALES COMPANY #41/23** This is an application to legalize a second sign for “Interstate + Lakeland” that does not have road frontage as per Article XX and Appendix D of the Town Zoning Code  
**Property Address:**  
**1236 East Main St.**

**Section 16.10, Block 1, Lot 30**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on January 25<sup>th</sup>, 2024, Site Visit on January 20<sup>th</sup>, 2024, and referred to the Building Department and ABACA.

**CONTINUED PUBLIC HEARINGS**

**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

Requested adjournment.

**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**  
Not open. Requested adjournment.

**NEW PUBLIC HEARING**

**RUSSO #33/23** This is an application to construct a deck and swimming pool that will require a side yard variance of 5.55 ft where 10 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**3085 Uncas St**  
**Section 25.12, Block 2, Lot 52**

Mailings and sign certification in order.

Thomas Russo appeared before the Board.

Mr. Russo said the pool is pre standard built, nothing into the ground. It is self-standing, this is a manufactured kayak pool.

Memo from the Assistant Building Inspector, dated December 4, 2023 states:

I inspected this property on December 4, 2023 and found a fence of more than 4. 5ft. in a front yard that requires a variance, and a shed that is also in a front yard that require variances for a front and side yard setbacks. I have no objections to granting the variance for the deck and pool. This application will require a building permit and a Certificate of Occupancy.

Mr. Russo said the shed was temporarily moved; it is on the other side of the fence. It was just because originally we were planning on doing this for the season, but it is getting pushed back now for the winter. The shed is not into the ground, they picked it up and moved it to the other side because they were going to take a fence link off to bring equipment in.

Chairman Fine said so you are going to move it into compliance.

Mr. Russo said yes.

Chairman Fine asked what about the fence.

Mr. Russo said the fence is to my understanding on the side of the property.

The applicant and Board members discussed the location of the fence.

Chairman Fine said so the pool being above ground is not going to have an additional fence, correct.

Mr. Russo said no, that is correct. As the photo I sent shows, the fence is built onto the build of the

pool.

Mr. Gregory asked, is any part of the fence in front of your house.

Mr. Russo said there is no fence running along the front of my house.

Mr. Gregory said not running along the front of the property, but the front face of your building.

Mr. Russo said no.

Mr. Gregory said what the Building Inspector is saying was there is a section of your fence essentially is in the front yard, and what is happening is the height of that fence according to the zoning ordinance, is supposed to be only 4.5ft. in the front yard.

Mr. Russo said understood, I was not familiar with that. I thought it was considered all side yard when they installed it, that is what they said.

Letter from neighbor, Joseph Agostinelli

The Russo's are my neighbors. I received a notice that they are proposing to install an above ground pool in the rear yard of their property. It is my understanding that they are requesting an area variance from the Zoning Board of Appeals for the side yard setback for the proposed pool. I am in support of the Zoning Board granting variance to the Russo family. I do not feel that granting the variance will cause an adverse affect to the neighboring properties

Neighbor, Constance Grover said the variance would be affecting me more than any other neighbor and I am very happy to let the Russo's infringe upon us.

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, and Meisterich, the application for a variance was granted to construct a deck and swimming pool that will require a side yard variance of 5.55 ft where 10 ft is required, and also to legalize the front yard fence with a height of 6 ft. where 4.5ft is the maximum, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and the pool be built in substantial conformity to the plans submitted, and if the shed is not in compliance, and musty be brought into compliance.

**REXHEPI #34/23** This is an application to construct an addition that will require a front yard variance of 36 ft where 40 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**2965 Mead St**  
**Section 27.05, Block 1, Lot 44**

Mailings and sign certification in order.

Architect, Jon Turnquist representing the applicant.

Mr. Turnquist said we are proposing to add on to the front of the residence, expand the living room and expand the upper second floor bedroom. Going to create a small porch, difference entrance way. Create a little bit more interest on the outside of the house.

The really only location we can add onto it and expand the living room is outside of the existing living room, which is in the front yard, it is a corner lot. We are seeking a variance of 4ft., there is the setback. On the opposite side of the house does meet the requirements, it has two (2) front yards.

Mr. Meisterich asked, this is the actual front of the house?

Mr. Turnquist said yes, I consider it the actual front of the house, it is where the entrance is.

Memo from the Assistant Building Inspector, dated December 4, 2023 states:

I inspected this property on December 1, 2023 and have no objections to granting relief. 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,

and Meisterich, the application for a variance was granted to construct an addition that will require a front yard variance of 36 ft where 40 ft is required, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and be built in substantial conformity to the plans submitted.

**D'AVELLA #35/23** This is an application to construct a detached garage that will require a side yard variance of 5 ft where 10 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**2423 Hunterbrook Rd**  
**Section 36.05, Block 2, Lot 52**

Mailings and sign certification in order.

Lucio D'Avella appeared before the Board.

Chairman Fine asked what are you looking to do.

Mr. D'Avella said two (2) car garage, detached.

Chairman Fine said no living space on top.

Mr. D'Avella said no.

Memo from the Assistant Building Inspector, dated December 4, 2023 states:

I inspected this property on December 4, 2023 and have no objections to granting relief. 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, and Meisterich, the application for a variance was granted to construct a detached garage that will require a side yard variance of 5 ft where 10 ft is required, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and the garage be built in substantial conformity with the following: It will be a two (2) car garage with two (2) front doors; a side door facing the house; the window will be facing the house, and the siding will be matching as well.

**GOJCAJ #36/23** This is an application to legalize an already built garage that has a side yard setback of 16.7 ft where 30 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**1204 Underhill Ave**  
**Section 47.20, Block 1, Lot 6**

John and Valentina Gojcay appeared before the Board.

Chairman Fine said you built the garage and had a permit to build the garage and found out it was too close to the property line.

Mr. Gojcay said yes. My understanding was as long as am 15ft. from the property line am okay.

I never built anything, I am not a builder or contractor, that was a mistake. Also, I do not know if it was a mistake by the Building Department when they issue the permit. They gave me this chart that says R1-80 which I fall in, the 80,000 sq.ft. of land requires 30ft.. I did not know that, if I had this chart from the Building Department, would not be this problem.

Reason we got this two (2) car garage and storage up, we want to remove the old shed we had there, and chicken coup and all that.

Chairman Fine said is the chicken coup coming out.

Mr. Gojcay said am going to relocate.

Memo from the Assistant Building Inspector, dated December 4, 2023 states:

I inspected this property on December 1, 2023 and an addition to an already permitted shed that is now in the side yard setback that must be removed or legalized with a variance. The applicant also has a chicken coop with chickens that does not have a special permit. Once the two violations are addressed I have no objections to granting relief for the already built garage. The garage will require

a certificate of occupancy.

Chairman Fine said you need a special use permit for the chicken coup, which this Board issues, but in order to issue a permit for chicken coup, we cannot just issue it, there are certain criteria you have to meet, you have to submit plans for it. Once the two violations are address then you will have no objections to the garage. So you have to address the shed and you have to address the chicken coup. So the way you have to address the shed is you will have to apply for a variance for the shed if you want to keep it. If you do not want to keep it, you just say you are taking it down. If you want to keep the chicken coup, you then have to apply for a special use permit for the chicken coup, apply for the Building Department as well and you will have to be back in front of us.

Chairman Fine asked, what are your plans by way of the shed and the chicken coup.

Mr. Gojcay said what I was thinking to keep the old shed, remove all the additions we added to the shed, which will be 40ft. from the property line.

Chairman Fine said all you have to do with the old shed is request a variance or put it into compliance. You put into compliance by making it smaller is fine, then you do not have to come back to use for that as long as the Building Department is okay with what you did.

Chairman Fine asked what are you doing about the chickens.

Mr. Gojcay said they are going probably; I am not going to bother.

Mrs. Gojcay said if he changes his mind, I am going to put in application.

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, and Meisterich, the application for a variance was granted to legalize an already built garage that has a side yard setback of 16.7 ft where 30 ft is required, with the stipulation that the shed that is not in compliance be removed or be brought into conformity, and the chicken coup either gets a permit issued for it or be removed and that the Certificate of Occupancy for the garage would not be issued until those two other items are addressed with the Building Department.

Meeting adjourned at 7:01pm

Happy Zoning!