

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
JULY 25TH, 2024**

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, July 25th, 2024. 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, David Chen, Special Counsel, Steven Fraietta, Assistant Building Inspector, Nisreen Khoury, Legal Assistant, and Anthony Altimari, New Board Member. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held September 12th, 2024, site visits are scheduled for September 7th, 2024. Mailings are to be sent from August 19th to August 28th, 2024.

NEW BUSINESS

DAVIS #21/24 This is an application for a renewal of an accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.
Property Address:
90 Timberlane Ct
Section 47.16, Block 1, Lot 2

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.

ALVORD #22/24 This is an application to construct a new garage over an existing footprint of a garage with a side yard setback of 3.6 ft where 15 ft is required per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
595 Madison Ct
Section 37.09, Block 1, Lot 12

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 September 12th, 2024, Site Visit on September 7th, 2024, and referred to the Building Department.

CICERO #23/24 This is an application for a variance for a combination of wall and a fence with a height of 7.5 located along the front property line where 4.5 ft is allowed per 300-13F and Appendix A of the Town Zoning Code.
Property Address:
1575 Journey End Rd
Section 69.10, Block 1, Lot 15

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 September 12th, 2024, Site Visit on September 7th, 2024, and referred to the Building Department.

CONTINUED PUBLIC HEARINGS

DAMIANO #01/24 This is an application for a special use permit for a new accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.
Property Address:
756 Hanover
Section 59.11, Block 1, Lot 19
Not open. Adjourned.

CUNHA #05/24 This is an application to construct a new two-family dwelling with a lot size of 10,000 sq. ft where 20,000 sq. ft is required as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
Summit Street
Section 37.19, Block 1, Lot 78
Not open. Adjourned.

CATALIOTI #14/24 This is an application for a renewal of a special use permit for an accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.
Property Address:
1543 Hanover
Section 48.11, Block 3, Lot 20
Application withdrawn by applicant.

SACCIO #15/24 This is an application for a special use permit to allow a chicken coop that requires a special use permit as per 300-81 of the Town Zoning Code.
Property Address:
2261 Ridge Rd
Section 37.06, Block 1, Lot 4
Adjourned by applicant.

NEW PUBLIC HEARING

SHORT #12/24 This is an application for a renewal of an accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.
Property Address:
1300 Baldwin Rd
Section 47.16, Block 1, Lot 2
Mailings and sign certification in order.
Memo from the Assistant Building Inspector dated, July 8th, 2024 states:
This is an application for a renewal of special permit for an accessory apartment as per 300-38 of the Towns Zoning Code. This property is in the R1- 80.
I inspected this property on July 8, 2024 and 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 permit was granted for a period of three (3) years.

AHMED #13/24 This is an application for a renewal of an accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.
Property Address:
1271 Fairhills Dr
Section 69.16, Block 1, Lot 10
Mailings and sign certification in order.
Memo from the Assistant Building Inspector dated, July 17, 2024 states:
This is an application for a renewal of special permit for an accessory apartment as per 300- 38 of the Towns Zoning Code. This property is in the R1- 80
I inspected this property on July 17, 2024 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 permit was granted for a period of three (3) years.

AHEARN #16/24 This is an application for a renewal of a special use permit for an accessory apartment that requires a special use permit as per 300-38 of the Town Zoning Code.
Property Address:
2103 Laurel Ct
Section 37.10, Block 1, Lot 9

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated, July 17, 2024 states:

This is an application for a renewal of special permit for an accessory apartment as per 300- 38 of the Towns Zoning Code. This property is in the R1- 10

I inspected this property on July 17, 2024 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 permit was granted for a period of three (3) years.

CONRAD #17/24 This is an application for a variance to allow an 8 ft. for located in the rear yard where 6.5 ft is allowed per 300-13F and Appendix A of the Town Zoning Code.
Property Address:
1225 Williams Dr
Section 5.17, Block 1, Lot 22

Mailings and sign certification in order.

Virginia Conrad appeared before the Board.

Chairman Fine asked is this an existing fence.

Ms. Conrad said no, it will be a brand new fence.

Chairman Fine said what is the basis for needing the extra height.

Ms. Conrad said my neighbors' property that is higher elevation than mine has turned their back yard into basically a parking lot, and I would like not so see the cars.

Chairman Fine said you want to put it on top of the retaining wall that is there.

Ms. Conrad said yes.

Mr. Meisterich said so it is 8ft. on top of the retaining wall, 8ft. more. Normally we do count retaining wall as part.

Ms. Conrad said it is not actually on top of the retaining wall, it is 2ft. away from the retaining wall where the property goes up hill.

Memo from the Assistant Building Inspector dated, July 8th, 2024 states:

This is an application for a variance to allow an 8' high fence located in the rear yard where 6' 6" is permitted as per 300- 13F and Appendix A of the Town Zoning Code.

I visited this property on July 8 and have no objections to granting relief for an 8' fence. This application will require a certificate of compliance when completed.

Mr. Meisterich asked would you be able to maintain the wood fence from the other side, you still have enough property, are you right on the property line?

Ms. Conrad said it will be very close to the property line.

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 an 8 ft. for located in the rear yard where 6.5 ft is allowed per 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 fence be constructed in substantial conformity to the type of fence that is documented in the file.

MCCANN #19/24 This is an application for an addition requesting a variance for a side yard setback of 36.27 ft where 40 ft is required as per 300-21 and Appendix A of the Town Zoning Code.

**Property Address:
3701 Old Crompond Rd.**

Section 36.05, Block 2, Lot 71

Mailings and sign certification in order.

Mr. and Mrs. McCann appeared before the Board.

Mrs. McCann said we are looking to add on a living area on our house which would go past the allowable area on our side yard.

Chairman Fine said what is going to be in the in the living area that you are adding?

Mrs.- McCann responded that we are just adding a larger living room right, currently we have a shared living room, dining room, kitchen, we were just looking to add a little.

Chairman Fine said: so a one story addition.

Mrs. McCann said yes.

Memo from the Assistant Building Inspector dated, July 8th, 2024 states:

This is an application with the application requesting a variance for a side yard of 36. 27 ft. where 40 ft. is required as per section 300- 21 and Appendix A of the Town Zoning Code.

I visited this property on July 8 and have no objections to granting relief for the requested variance.

This application will require building permit and certificate of occupancy when completed.

Chairman Fine asked and you're not going to have any living space in the under the roof?

Mrs McCann said no.

Chairman Fine asked is it going to be storage space.

Mr. McCann said it is going to be cathedral ceiling.

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 for an addition requesting a variance for a side yard setback of 36.27 ft where 40 ft is required as per 300-21 and Appendix A of the Town Zoning Code. With the stipulation of this pertains only to the requested variance and not the remainder the property line, and that the addition to be built substantial conformity to the plans submitted.

GHIRARDI #20/24 This is an application to legalize and already built deck that requires a side yard setback of 4.6 ft where 10 ft is required. The application also includes a legalization of a shed that requires variances for a side yard set back if 2.9 ft where 10 ft is required and a rear yard setback of 7.8ft where 10 ft is required. All as per section 300-21 and Appendix of the Town Zoning Code.

**Property Address:
1439 Trout Brook Dr
Section 48.14, Block 2, Lot 15**

Mailings and sign certification in order.

Dominick Rinna of Site design and Nemo design appeared before the Board with the applicant.

Mr. Rinna said Mr Ghirardi is looking for a variance for side yard for the deck and also shed.

Chairman Fine asked how long the deck has been there.

Mr. Ghirardi said the original deck was added 36 years ago.

Chairman Fine ask how about the shed, how long has it been there.

Mr. Ghirardi said about the same amount of time.

Chairman Fine asked is the shed built on any kind of foundation or it can be easily moved or if you move it will it fall apart, what is the story with that.

Mr. Ghirardi said just on like a railroad tie foundation that I put in.

Chairman Fine said wood or metal.

Mr. Ghirardi said wood.

Memo from the Assistant Building Inspector dated, July 1, 2024 states:

This is an application to legalize an already built deck that requires a side yard setback variance of 4' 6" ft. where 10 ft. is required and to also legalization of a shed that requires variances for side yard setback of 2.9 ft. where 10 ft. is required and a rear yard setback of 7.8 ft where 10 ft. is required. I inspected this property on July 16, 2024 and found that the decks were built on grade. I have no objections to granting a relief for the legalization of the deck and shed.

Mr. Meisterich said so the deck is basically ground level that we are talking about.

Mr. Riina yeah it is basically right above grass level.

Mr. Meisterich said there is a main deck that is a little bit higher almost like a patio I would call it.

Mr. Ghirardi said part of that is actually in the ground because of the slope.

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 legalize and already built deck that requires a side yard setback of 4.6 ft where 10 ft is required. The application also includes a legalization of a shed that requires variances for a side yard set back if 2.9 ft where 10 ft is required and a rear yard setback of 7.8ft where 10 ft is required. All as per section 300-21 and Appendix of the Town Zoning Code. With the stipulation that it pertains only to the requested variance and not the remainder of the property line.

76 Route 6 Holdings Inc

#18/24

Property Address:

76 Route 6

Section 6.18, Block 1, Lot 37

As per the Zoning Boards interpretation that residential districts outside of Yorktown must be considered under section 300-97(A) to determine proper setback, the applicant must request a variance for construction of a new building with a 101 ft setback from a residential district that requires 200 ft as per 300-97 and 300-21 of the Town Zoning Code.

Mailings and sign certification in order.

Jacqueline Cullen of Zarin and Steinmetz, filling in for David Cooper tonight, who is the primary Council on this application. David Steinmetz is going to be joining us tonight. Also present is Pat Cartalemi, the applicant, and Jason Snyder from Badey and Watson.

Ms. Cullen said we are here tonight for an area variance to allow a 101ft. setback from the eastern property line of the property that borders a residential district, and we are seeking approval to construct a recycling facility, parking, outdoor storage, and related improvements on an 18 acre property in the I-1 zoning district in which a recycling facility is an as of right permitted use and the outdoor storage is a special permit use subject to Planning Board Approval. So you know we were previously before your Board in May on the question of whether the 200ft. or 100ft. setback applies to the eastern. So as you know we were previously before your Board in May on the question of whether the 200 ft or 100 ft set back applied to the eastern boundary, so your Board determined that the 200-foot said that does apply and as a result of that the applicant did look at other options, other layouts on the site. It is an odd shaped site it is an L shape and there are site constraints on the property however we did locate a layout that could be possible on the southern portion of the property.

So we did look at a sighting at the southern portion of the property which is possible without zoning variances however as we'll show this option is an inferior option because of its proximity to Route 6 as well as the residences and it would also require additional encroachment into the wetland buffer on that southern portion of the property. So we also we wanted to touch on with your board the project operations tonight we know that there has been some concern by the town and the public about potential impact for the use itself this is a fully enclosed operation they will only accept co-mingled Recycling and construction debris all processing all dumping will take place entirely indoors with doors close and they are also subject to strict regulations including monitoring reporting random inspections.

Mr Fahey asked what is co-mingling recycling

Pat Cartalemi responded that the facility will accept construction waste, like sheetrock wood, etc. and then the other process (Household Recycling). Co-mingled is bottles, cans, aluminum cans, glass, and cardboard and newspaper.

Ms. Cullen asked Mr. Cartalemi to go over the operations.

Mr. Cartalemi said the layout that we are requesting on the entrance would be off Navajo and there would be a scale house at the beginning of the property, where trucks would weigh in. There would also be a visual inspection of the trucks and the loads at that time, that is outdoors. So they come in they would be fully enclosed to have to be checked when they get on the property if they're not tarp they get kicked off they have to come back with the tarp on the property. So, that would be the entrance on this plan you're looking at you see a little box by the entrance of Navajo that would be where the scale house would be. The trucks would go up past the parking lot over the wetlands and up to the building. The first part of the building would be an office, second part of the building would be maintenance, and then there would be two other sections those would be where the recycling center process would happen. The first section of the building which would be a four-door section would be where the construction debris is disposed of would be dumped into the building there. There will be a series of three doors for trucks to back into. Trucks would back in, doors would open, doors would close, by the time they get into the building. They are fast open doors about 7-8 seconds open to close processes is the ones we are proposing to put in there. Trucks will dump the debris in the building, they would pull out and leave. There would be another door that bigger trucks, tractor trailers that will take the things off the property that are not being recycled and would to the other sites to be disposed of the stuff that cannot be recycled.

Chairman Fine asked how many trucks per day do you estimate.

Mr. Cartalemi said so it all depends on what the DEC allows us to take because they are the ones that will permit us based on building size, hours and all that information, so it is anywhere probably between 60 to 100 trucks in and out is what we are probably proposing.

Chairman Fine said what time frame.

Mr. Cartalemi said during what we are asking for is from 6:00 a.m. to 6:00 p.m. so within a 12 hour window.

So that would be the construction debris side, in the building there will be processing of the construction debris so things that are recyclable will be moved out, unpainted wood that can be recycled, shingles if we could find a place to recycle them. I have actually been talking to the Gypsum plant in Buchanan, they will take sheetrock to recycle back, any concrete that can be recycled can be taken out, wood all that stuff that can be recycled be taken out so it does not go to a landfill.

The second part of the building which will be the furthest part north would be the recycling side so there will be two doors in that building. Part of the building which will be the furthest Part North would be the recycling side so there'll be two doors in that building trucks will back in dump out recycling it will be sorted through with either a machine or by hand. That process will pick out what is recyclable there will be some stuff that isn't recycled that will come out. That will be handled and that will either up going to incinerator or a landfill Recoverable material will shipped to recycling facilities to be repurposed so that would be cardboard newspaper bottles cans that will all be reused. So trucks will enter into the property and go out via that one entrance. So all of this like I stated earlier is regulated by the Department of Environmental Conservation, you have to get a permit through process through that they'll have a lot of input in sight layout, in turning radiuses, in noise, so one of the things you have to do with the DEC in regards to noise is every year you have to do a noise study to the property line, and they have a threshold that you have to be at it is 65 decibels you have to be out of the property line anything over that you get a violation from the Department of Environmental Conservation. So there will be a study, will have to hire an outside firm that once a year will have to do that study so that is noise.

They will also come and do random inspections throughout the year, the applicant will have the pay the DEC a monitoring fee every year and they will send monitors to come in and they do random

inspections on the site, they also will regulate trucks traffic in and out the regulate how much waste is in the building, how much waste we can take, how much waste goes out. Every year we have to report the amount of tons that comes in as well as the amount of tons that goes out and we are ourselves have to do tracking on that, we have to do tracking and inspection on random loads as well as train our employees for what to look for in loads that can come in. because there will be things that are not allowed that we will have to reject, reload in the trucks, or dispose of dome other way.

Chairman Fine asked what size trucks are we talking about.

Mr. Cartalemi said so the trucks will vary so most trucks will be regular roll-off trucks with anywhere from a 10 to a 40 yard container on them so they are roughly about 35-36 ft long those will be the trucks that will be coming in mainly. There will be some 53-ft trailers that will come in that will pull out the free that is not recyclable but those be a lot less maybe 5% of those will be coming in and out. More will be regular probably about 30ft., 35ft. trucks would be coming in and out of the property.

Mr Tripodi said the sorting process that has to determine what is recycled on site and what has to leave where does that occur

Mr. Cartalemi said all in the building nothing will be done outside at all.

Mr Gregory said when you process the material where do you store it before it leaves.

Mr. Cartalemi said in the building in containers in the building. Nothing is stored outside we are not allowed to by the DEC or by your code to do anything outside.

The DEC regulations are very strict in that and they've actually been updated 2 years ago for that and every facility has to come up to code within a certain amount of time that everything has to be inside the building so there are other facilities in the area that are not inside the building but since we are building facility knew it has to comply with the new regulations inside.

Mr. Meisterich said regarding how material comes in, say construction debris where is like specifically that coming from, Individual contractors or I guess when somebody rents a dumpster on a project is that what comes in.

Mr. Cartalemi said yes. The site would be open to the public, you could come if you renovated your house and bring sheetrock to the facility, as well as contractors can come in, as well as other haulers can come in to the facility. So it is open to the public. Also residents can bring their recycle as well, so it would be completely open to anyone who wants to come.

Mr. Fahey asked how do you handle asbestos and lead?

Mr. Cartalemi said asbestos would not be coming to the facility.

Mr. Fahey said if I am packing a dumpster and I want to be nefarious and I bury it at the bottom of the dumpster it shows up at your premises, how do you deal with that.

Mr. Cartalemi said the employees will be trained by the DEC, there are strict standards that we have to train the employees, what to look for so if that does come in a load as they are sorting through it, it would be segregated put to the side and it can either go back to the person who either brought it in or we can dispose of it legally the way we want to. In the operation plans which will be developed with during the process with the DEC those processes will be laid out of exactly how it would be handled.

Mr. Fahey said if you are working as a homeowner you buy an older home it is going to be asbestos it is going to be lead, how does that get disposed of and how do you guys handle that , I do not know how you guys sort through that, that you dump the dumpster and you see it.

Mr. Cartalemi said they are trained to spot that so they will see this passes and what they will do if they were segregated let it go back to the hauler who brought it in or the resident who brought it in or we can put it to the side put it in a container and dispose of it properly. So asbestos usually goes to a landfill same thing as construction debris dust, just in a different cell in the landfill same thing with lead paint that treat them the same exact way.

The operations process was discussed further.

Chairman Fine asked what is the difference in the plans between the one that requires the variance and the one that does not require a variance.

Ms. Cullen said I want to clarify one thing on the outdoor storage, so there is no waste stored outside, all waste will be stored inside but there will be empty containers that are outside that is why we are seeking the special permit for the outdoor storage.

Mr. Gregory said so the outdoor storage would be containers and the special permit would have to be granted by the Planning Board.

Ms. Cullen said correct.

Mr. Fahey said and this operation it is only from 6:00 in the morning to 6:00 at night, is there any night time, are you moving dumpsters or dropping containers do any of that at night.

Mr. Cartalemi said no, and again the site constraints and the time will be dictated by the DEC so it might not be even 6am to 6pm it all depends on what they give us.

Ms. Cullen said the proposed plan with the variance and the plan without the variance was showed and discussed.

Memo from Westchester County Planning Board, dated March 27th, 2024 states:

The Westchester County Planning Board has received a site plan (revised February 13, 2024) and related materials for a proposed recycling center on a vacant, wooded, 18.1-acre property located at 76 Route 6 BL 6. 18-1-37). The site is located within the I-1 — Light Industrial Park zone, with secondary frontage on Navajo Street.

The proposed building would be 40,000 square feet, containing processing areas for consumer recyclables, construction materials, and a motor vehicle repair area. Two stories of office space would also be included. Due to the various terrain issues on the site, vehicular access would be provided from Navajo Road on the west side of the site, with a driveway extending to the building located on the northeast side of the site. Truck parking would be provided in two locations: 20 spaces adjacent to the building's loading docks, and a separate parking lot in the middle of the site containing 69 spaces. 16 automobile parking spaces would be provided for employees near the front door of the building. A truck weigh station would be located near the driveway entrance, and culverts would be constructed to accommodate two onsite streams.

We have no objection to the Yorktown Planning Board assuming Lead Agency status for this review. We have reviewed this application under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code and we offer the following comments:

1. Construction within a regulated stream/wetland buffer.

The referred project, as submitted, involves the disturbance of 2,600 square feet of wetlands, as well as adjacent wetland buffer areas, in order to construct the proposed building and driveway. We also note that while the number of trees to be removed has not been established by the developer, the site is currently heavily forested. While we acknowledge the applicant has avoided locating the building and secondary parking lot within wetland areas, the County Planning Board consistently recommends that construction and alteration of land within regulated wetlands and stream/wetland buffers should be avoided. This recommendation extends to the siting of stormwater management facilities.

2. Pedestrian access to bus stop.

We note that a Bee-Line bus stop for routes 16 and 77 is located at the corner of Navajo Street and Route 6. We recommend that appropriate pedestrian accommodations be installed along the driveway in order to provide safe access from the bus stop to the building for employees and visitors. As further encroachment within the wetlands is not desirable, signage and pavement striping should be utilized.

3. Stormwater management.

As the proposed site plan includes subsurface stormwater quality and retention infrastructure, we point out that subsurface methods of stormwater management can be of diminishing effectiveness over time if not properly cleaned and maintained. To ensure the continued operability of this

stormwater management system into the future, the applicant should provide an enforceable maintenance program that will prevent the system from being clogged with sediment, and in turn force a higher amount of stormwater runoff into the onsite streams. We note that stormwater management is especially important for a recycling center, due to the possible debris and pollutants that may enter the watershed. The applicant should also be encouraged to explore at-grade stormwater management solutions that treat runoff on-site wherever possible, such as using pervious paving for parking areas, or the installation of vegetative rain gardens.

4. County sewer impacts.

Should the proposed building be connected to the Peekskill sewer district, it will increase sewage flows from this site into the existing infrastructure and will add to the volume requiring treatment at a Joint Water Resource Recovery Facility operated by Westchester County. Since 2010, it has been the policy of the County Department of Environmental Facilities (WCDEF) that municipal governments require the applicant to identify mitigation measures that will offset the projected increase in flow. The best means to do so is through the reduction of inflow and infiltration (I&I) at a ratio of three for one for market rate units and a ratio of one for one for any affordable AFFH units.

The County Planning Board further recommends that the Town implement a program that requires inspection of sewer laterals from private structures for leaks and illegal connections to the sewer system, such as from sump pumps. These private connections to the system have been found to be a significant source of avoidable flows. At a minimum, we encourage the Town to enact a requirement that a sewer lateral inspection be conducted and any necessary corrective action be enforceable by the municipal building inspector.

5. Green building technology.

We encourage the applicant to include as much green, or sustainable building technology as possible within the proposed development. We note that no indication has been provided towards the utilization of the rooftop. We recommend that the applicant consider incorporating a solar array or a green roof in order to provide further environmental remediation within the site. In addition, the Town and the applicant should give consideration towards the provision of electric vehicle parking capabilities within the proposed parking lot.

Letter from Town of Somers, dated July 23, 2024 states:

The Town of Somers is in receipt of the notice of public hearing for the aforementioned Atrac Recycling Center. While we understand that the use is permitted in the Town's s 1- 1(Light Industrial) District we do have overall concerns regarding the use which we will provide to the Town of Yorktown Planning Board under separate cover.

With respect to the subject application, it is our understanding that Atrac is seeking a variance to construct a 40,000 s.f. building within approximately 100 feet of the Town of Somers border where a 200- foot setback is normally required when these uses abut a residential zoning district. The Application package that we have reviewed includes an alternative layout that places the proposed building closer to Route 6 but would not require a variance. The Town of Somers formally objects to the placement of the proposed building approximately 101 feet from the Town line when there is a viable alternative available for consideration that does not require variances from the Town of Yorktown Code and locates the proposed use further from the residentially zoned land in the Town of Somers.

Memo from the Conservation Board, dated July 24th, 2024 states:

The Conservation Board at its July 17, 2024 meeting discussed the Atrac Recycling Center located at 76 Route 6 with Margaret McManus from Badey & Watson. Since the Board last reviewed this proposal, the applicant has revised the site plan and requested

an area variance to allow a 100- ft setback from the eastern boundary line where 200 feet is required. The proposed revisions do not change or mitigate the original environmental concerns raised by the Conservation Board upon our initial review of the project at our March 6, 2024 meeting, which included concerns regarding the two wetland crossings, the severity of erosion along streams located on the property, and increased traffic flow with the subsequent increase in air pollution. Each layout presented by the applicant has significant adverse environmental impacts, and we do not support the granting of a variance.

Memo from the Planning Board, dated July 25th, 2024 states:

At its meeting of July 15, 2024, the Planning Board discussed the subject referral involving the applicant' s request for a variance of 100 ± feet from the required setback of 200 feet where a property abuts a residential district. As the Zoning Board is aware, the applicant has an application for site plan approval involving a proposed 40,000 square foot recycling center in the I- 1 zone on the subject property. The proposed building lies 100± feet from the eastern property line which adjoins a residential-zoned district in the Town of Somers. The Planning Board received the site plan application on December 27, 2023 and initiated its review in January. Discussions to date have largely revolved around the characteristics of the use, and the proposed layout and siting of the facility that gives rise to the subject request for a setback variance of 100± feet as cited herein.

Early in the process those discussions became the subject of a request for an interpretation of whether the 200- foot setback requirement applied in cases such as this, which the Zoning Board affirmed on May 23, 2024. Until that time, customary site planning issues could not proceed effectively. On June 12, 2024, the applicant submitted to the Planning Board a package of material which included a statement of its intent to apply for the subject variance along with various material which included an alternative layout, which does not require a setback variance. As of this date the Planning Board has not fully examined the merits of the alternative layout, nor investigated any modifications to its general concept. Further, given the focus on setback issues, the Planning Board has not been able to move through issues such as traffic, noise, and other environmental impacts, **nor has it determined the most appropriate site layout under which the proposed use will be least impactful overall.**

Therefore, the Planning Board, without reaching a stage in the planning process that would afford it the data and knowledge to put forth a site layout that is most appropriate for the site and least impactful to the surrounding neighborhoods, and Yorktown at large, the Planning Board cannot make an informed recommendation as it regards the instant application for setback variance. As is custom and practice, the Planning Board would prefer to make recommendation to the Zoning Board of any required variances, once it has certainty that it has designed an effective and supportable site plan and the required variances clearly support those plans.

Chairman Fine said I would also note that we had referral out to the Department of Transportation, and they sent back a letter requesting that a traffic study be done from Route 6. Is that part of what is going on with the Planning Board?

David Steinmetz that would be submitted and made part of the record.

Mr. Fahey said curious question with the traffic study I know we talked about Route 6 and this is coming from all over, down County, Putnam County, what roads are you using in Yorktown to get there. You going to be coming up 132, are you coming through town how are you going to reach the facility.

Mr. Cartalemi said so most truck traffic will come through Route 6 obviously that is where most of it will come through, there will be some local roads use I am assuming, depending on where the trucks are coming from. The traffic study we did study the intersection of Navajo and Route 6, the 6N and Route 6, and we even did some impacts further down towards the Mahopac line as well so the traffic study addresses multiple intersections Navajo out.

Mr. Fahey said are you going to address anything coming in like say from Route 202 or 132, because again that is coming through, they got to get to Route 6. How are you getting to Route 6.

Mr. Cartalemi said our traffic study for the immediate area from Navajo and Route 6 and the I think it is one intersection to the left and two intersections to the right.

Chairman Fine said DOT would asked for any on that.

Mr. Steinmetz said certainly I would anticipate the Planning Board as lead agency will conduct a comprehensive review under SEQRA.

I'm going to take a step back because I missed the beginning, I know my colleague Jacqueline Cullen probably did an unbelievable job so I am going over the layout. You went over to procedures Let me start with general statement and then go through the factors. Obviously, this is an as of right permitted use on this property so this is something this is a use, this recycling facility is a use that the town of Yorktown and its wisdom legislatively has already determined can and maybe located in this Zoning District, the issue that is before you and not before the Planning Board is whether we can be 200ft. off of uh that property line as opposed to the 100ft. setback that we are legalizing. I am fascinated to hear the Town of Somers statement on the record, I appreciate you reading that, I had not heard about that, none of us had prior to tonight. Let us just state for the record that it appears that the Town of Somers and my friends at the Town of Somers do not seem to want to respect that same setback for their light industrial use that is immediately on the other side of that line The Whispering Pine which is there, and my client is not objecting to Whispering Pine, but Whispering Pine and its materials and its outdoor storage, and its operations, and its vehicles, and its equipment, and its manpower, are all located a matter of feet from that property line so for me I start with the proposition that we have two different locations that we can place this recycling this recycling facility in this building The recycling facility is allowed in this Zone the recycling facility is a necessary use in the town it's a necessary use in society we need a place to bring our materials both construction materials, our municipal recyclables, our metals, our glass, our plastics, we need a place to bring them. We also in terms of the green things that we heard from the Conservation Board, would really like to take these items and put them back into the stream of Commerce and not landfill all of these items so what my client is proposing to do is take a recycling facility which is a laudable concept put it entirely inside a building with fast rolling doors all operations all storage inside that building a leche collection system on the pad and located on the site so the question for your board is do we locate it as far from Route 6 and as far from the nearest residentially developed neighbors and place it on that portion of the northern portion of the site where it becomes more narrow and are set back from the easterly property line becomes more challenging, or with the town and its wisdom decide that we should bring it further south located in an entirely zoning compliant location but probably not the best place.

Mr. Steinmetz discussed the five (5) factors.

Mr. Steinmetz said special circumstances, unique circumstances, this is a really unique application on a very unique piece of property and I would hope that your Board would take those factors into account and ultimately determining where the best place is. I spoke with your Town Planner earlier today after Jacqueline and I received a copy of the memo, and John Tegeda and I spoke. I said John would love to spend as much time as the planning board needs in order to render some kind of recommendation but it would be really foolish and uneconomic for us to fully bake a site plan on the Northern preferred location, and then come to the Zoning Board and have you tell us you know what we really would rather not give you the variance, why not put it in the zoning compliant area. He did not disagree with me he said David I wish we had more information in front of us and we could make a recommendation at this point, we are not recommending one place or the other. So the good news for me is there is no recommendation from the Planning Department and the Planning Board at this point that says do not put this on the northern portion of the property, John just felt compelled and I have as this board knows done numerous matters in front of your planning board and I frequently ask them for a favorable recommendations to your Board before I come here. I would rather be

standing in front of you with the planning board saying we recommend the northern location, he told me why he does not feel they are ready to do that, I get that, nonetheless we are in the process, my client would like to advance, we would very much like your Board to if you are comfortable and if you feel you have enough information we would like you to make a ruling on the area variance for the preferred location. We are happy to respond to your questions, we happy to address the things that we hearing on the fly in in terms of what Mr chairman read into the record some of these things were literally hearing for the first time this evening I know this one is not even I know my partner and colleague Jacqueline have quite a bit of interaction with the town planning board and now with your board, the bad news for you is my client isn't going away.

Chairman Fine said generally speaking though, we do not move ahead with an application without someone Planning Board giving us a thumbs up, thumb down, what they recommend. They also need a traffic study which we probably would want to look at also traffic study would probably want to look at also because as you know if we consider a variance, we have the authority to limit what can go on, if we give you that variance so it is possible so we have to tailor the variance in a certain way. With being said you are not going to get a decision from us tonight.

The matter was discussed further regarding operations, vehicles route, and maintenance of the vehicles.

Neighbors and residents; Charles O'Neil, Ann O'Neil, Jay Kopstein, Brian Selic, Attorney Anthony Centone, representing Whispering Pine, Joanne Selic, George Davis and Michael Kiernan, spoke of the opposition to the application.

Mr. Steinmetz and the applicant responded to the comments of the residents.

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

Meeting adjourned at 8:08pm
Happy Zoning!