

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS  
FEBRUARY 27<sup>TH</sup>, 2025**

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, February 27<sup>th</sup>, 2025. The meeting began at 6:30 p.m.

The following members of the board were present:

John Meisterich, Chairman  
Anthony Altimari  
William Gregory  
Anthony Tripodi

Also present are, Christine Keager, 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 March 27<sup>th</sup>, 2025, site visits are scheduled for March 22<sup>nd</sup>, 2025. Mailings are to be sent from March 3<sup>rd</sup> to March 12<sup>th</sup>, 2025.

**NEW BUSINESS**

**NEWSHOLME**                      **#1/25**      This is an application for a renewal of a special use permit for a professional office as per Section 300-76 of the Town of Yorktown Zoning Code. Property is in an R1-20 zone.  
**Property Address:**  
**2326 Crompond Rd**  
**Section: 37.09 Block: 1 Lot:**  
**58**

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

**DAVIS**                              **#2/25**      This is an application for a renewal of a special use permit for a for a Day Care Facility as per Section 300-52 of the Town of Yorktown Zoning Code. Property is in an R1-20 zone.  
**Property Address:**  
**1770 Strawberry Rd**  
**Section: 315.11 Block: 1 Lot:**  
**1**

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

**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**

Adjournment requested by applicant.

**76 Route 6 Holdings Inc**                      **#18/24**      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  
**Property Address:**

**76 Route 6**  
**Section 6.18, Block 1, Lot 37**

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.

Adjourned by applicant.

**VELLUCCI #32/24**  
**Property Address:**  
**3675 Curry St**  
**Section 17.06, Block 1, Lot 32**

This is an application to construct an addition to create an accessory apartment that will require a side yard variance of 12.95 ft where 15 ft is required per section 300-21 and Appendix A of the Town Zoning Code.

Application withdrawn by Applicant.

**POGGIOREALE #35/24**  
**Property Address:**  
**2829 Crompond Rd**  
**Section 26.20, Block 2, Lot 3**

This is an application for a NEW children's day care center that requires a special use permit as per 300-53 of the Town Zoning Code.

Application before the Planning Board.

**PANBAR REALTY #39/24**  
**Property Address: 3301 &**  
**3307 LOOKOUT ST**  
**Section 16.17, Block 4, Lots**  
**20 & 22**

This is an application to combine two (2) lots to create one (1) single lot that will require a variance for a total amount lot area 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.

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

**TEATOWN**  
**LAKE**  
**RESERVATION**  
**#41/24**  
**Property**  
**Address: 1600**  
**Spring Valley**  
**Rd**  
**Section 69.14,**  
**Block 1, Lots**  
**5,7**

This is an application for an appeal seeking a variance from the Town of Yorktown's Chapter 130-2A(9), which mandates the installation of a sprinkler system in new buildings classified as Educational Group E. The applicant requests an exemption from the sprinkler system requirement as outlined in Section 130-2A(9) of the Town Zoning Code.

Mailings and sign certification in order.

Eric Bunge of nARCHITECTS appeared on behalf of the Applicant.

Mr. Bunge said we are seeking relief from the Yorktown code Article 1, Chapter 130-2. We would like to argue we are meeting the intent of the code or exceeding it, as well as this is a unique condition. As you know since we last met you, we had conversations with the Fire Bureau and the Planning Board, and the Building Department all three of which have submitted letters of support of our seeking relief. Chairman Meisterich said there are grounds to request a variance for this law, and they are spelled out within the law and what you are using as your grounds for appeal are that it is unnecessary in light of viable alternatives which meet the intended objective of the Article.

Mr. Bunge said correct.

Mr. Bunge said I will describe the building, its size, its physical properties, the way people inhabit it, egress from it, the materials as well as the maintenance and

operations of the building.

The building is a modest size 5920 sq.ft., well under the 12,000 sq.ft. minimum threshold per New York State code. It is 1 story only, again well under the maximum height and the 2 stories available to us for non-sprinklered building. Its function is education, nobody sleeps there overnight, not even animals. The building is built of non-combustible construction, so it is Type 2B unprotected non-sprinklered, it's a concrete composite, steel metal deck, steel on steel columns structure, concrete slab completely non-combustible, again it does not have to be per New York State code, so it greatly exceed that threshold. All the materials are class A fire resistant. Zero to none flame spread or smoke development and partition inside the building which do not have to be rated under this, all have the minimum 1 hour, 5 separation between rooms with the exception of the classrooms, classrooms 2 and 3 have 2 hour fire rating. That describe the physical aspect of the building.

The buildings' occupancy is 185 people plus some folks on the roof, still well below the threshold of 300. There are excessive means of egress because the building is all on the same level, so we have the 2 primary entrances which are the 2 required means of egress, but in addition each classroom have direct access to the outside, and I want to point out through the many months of our conversation with you, the Fire Bureau, and the Planning Department, the building has gotten better and safer. So I think this Article has helped make a safer building and safer community. We have not made all those doors official egress doors from each classroom. We were asked to make a window in the storage room, which is also used by some of the teachers sometimes to meet, to make that an operable window that the fire department can then use to extract people. So that describes how people move in and out of the building, no one sleeps there.

In terms of the operations, there is a fire alarm that notifies the occupants, as well as the local fire department and we have the fire extinguishers, and fire alarm extinguishers are maintained on a regular basis. So that describe how people can evacuate from the building. In addition, the building is served by the fire department, the fire department has access and we can expand on this, in fact clarification was asked by the Planning Department, and they issued their support after we responded, but to clarify, fire vehicles will access the building from a new access loop off of Blinn Road, it is 20ft. wide to allow for 2 fire vehicles to get pass each other if needed, and fire equipment can come next to the building down to about half way. The Blinn Road access is extended, it is a reinforce turf I believe, again 20ft. wide so the fire truck or vehicle can come right up against the building, so we have 185ft. extension from that.

The Planning Board asked us about construction details, those have been submitted and approved for that.

This is a unique condition, this building is passively safe which we think is actually safer than relying on mechanical equipment, and specifically there is no municipal water, so in order to have a sprinkler system you have to extract water from the lake, which would cut through very significantly ledge rock and healthy stand of trees but would also result in a 8000 gallon tank, like having a submarine in your backyard. In order for this to be operated by code, it would have to be operated by a diesel pump, which means diesel fuel. Teatown has been trying to divest from fossil fuel and we precisely do not want combustibile in that area for safety reasons, not to mention the constant testing of this diesel pump every so often bothering the rafters, it is very quiet place. So in light of these specific conditions and the building being passively safe, we submit that we meet or exceed the intent of Yorktown code. In addition to all this, Teatown has agreed to place a dry hydrant about .4 miles West of Teatown in a location that was reviewed and approved by the Fire Bureau because of the

elevation relative to the lake, the depth or the bathymetry of that lake and other conditions that are optimal. So this dry hydrant will serve the community, so it is another wonderful outcome from this conversation, it will serve the entire Teatown Campus but the entire community.

Chairman Meisterich said in support of your statement, I have your memo submitted to the file.

Mr. Altimari said the hardship or whatever we are saying, with the diesel generator, what basis were the hydraulic calculations, like were did you come up with the 8000 gallons of diesel generator as oppose to a fire pump that may run off a 220. I am sure there is a 200 amp service there. I like to idea of the dry hydrant for the community. There are other reasons requesting the variance, but is does not sound like you are completely hanging your hat on this diesel, the storage tank, the 8000 gallon and the fire pump.

Mr. Bunge said we submit that the passive safety is the argument, but we are describing as if this were not to be approved. We have retained the services of a mechanical, electrical, plumbing and engineering consultants and they are actually nearby. It was their job to research the code requirements for the sprinkler system by code, unfortunately, an electric service would not be allowed because of its unreliability, so it had to be diesel pump. This was thoroughly researched.

Mr. Altimari said so you would have to have a back up generator to run the fire pump in the event, which would be diesel.

Mr. Bunge said yes, that is right.

Mr. Tripodi said the first floor, that is at ground level, so egress would be directly outside.

Mr. Bunge said correct, it is only 1 floor.

Mr. Tripodi said you mentioned there is 3 classrooms, and there is fire extinguishers in each classroom.

Mr. Bunge said each classroom.

Mr. Tripodi said any other areas on the first floor.

Mr. Bunge said yes, near the exits. Each habitable room has a fire extinguisher.

Mem from the Bureau of Fire Prevention, dated January 14, 2025 states:

On Monday January 13th, 2025 the Bureau of Fire Prevention ( BFP) met to discuss the request for a variance from the Town Code requirement for fire sprinklers in their proposed environment education center. After months of discussion and careful consideration the BFP has decided to support the request for the variance. This decision was not an easy one and is in no way setting a precedent for future requests. Many unique factors and the complete cooperation of the applicant led to our decision.

The factors that led to our decision are as follows:

1. The applicant had agreed to install a dry hydrant to aid in securing a reliable water source for

fire suppression operations. The Yorktown Heights Fire District ( YHFD) and the applicant

have been discussing the location.

2. The building is being designed to exceed the minimum code requirements. This includes

finishes that exceed the minimum flame spread and thermal conductivity, increasing the size

and number of egress means, increasing the number of fire extinguishers, installation of a more

than compliant fire alarm system, decreasing the maximum occupancy limit and

decreasing the height and size of the structure.

3. The applicant has increased the ability for fire apparatus to access all locations on the Teatown Campus.

4. The applicant will work with the YHFD to better develop preplans for fire department operations.

5. The applicant will provide fire safety and fire extinguisher training to all employees.

6. The BFP took into account the extreme challenges with establishing an adequate water supply to provide for a functional fire sprinkler system.

7. The BFP took into account that the applicant is a non-profit organization that provides an invaluable resource for the residents of the Town.

8. The new education facility will be a far safer facility from some of the current locations used.

9. The applicant will not need to seek a State variance as fire sprinklers are not required by State Building Codes.

In conclusion, the BFP feels that the applicant has gone above and beyond in pleading their case for this variance. Again, the BFP has taken almost three months of discussion to come to this conclusion and did not come to it lightly. Had the applicant been a for profit or this had been a residential or hazardous facility the BFP would not have even considered the variance.

Memo from the Assistant Building Inspector, dated January 17, 2025 states: With regards to the applicant seeking a relief from Town Code 130- 2 for mandatory use of a sprinkler system in a new building it should be noted that the 2020 NYS Building Code classifies this building as type IIB construction, which means it will be built with non- combustible materials. This proposed use of this building is classified as an Educational Group E as per the Building Code. As we look at Section 903. 2. 3 of the Building Code that governs when a sprinkler system is required for Educational Occupancies it states the following:

F] 903.. 2. 3 Group E. An automatic sprinkler system shall be provided for Group E Occupancies as follows:

1. Throughout all Group E fire areas greater than 12, 000 square feet in area.

2. The Group E fire area is located on a floor other than a level of exit discharge serving such occupancies. Exception: In Building where every classroom has not fewer than one exterior exit door at ground level, an automatic sprinkler is not required in any area below the lowest level of exit discharge serving that area.

3. The Group E fire area has an occupant load of 300 or more.

Looking at the first requirement, the plans submitted indicate a total area of 5, 920 square feet of building area.

This is well below the 12, 000 square foot threshold for a required sprinkler system. The second requirement is for multi- story building. This is a single- story building with each classroom having an exit directly to the exterior. Therefore, no sprinkler system is required.

The third requirement does not apply for the occupant load is 185 persons.

As for the Storage classification of the building is well below the threshold of the requirements to install a sprinkler system as per the Building Code. It is understood that there would be a significant cost to install a sprinkler system to the New York State Building Code and the NFPA 13 standard being there is not a public water source. Taking everything into consideration, non-combustible construction, all classrooms have an exit directly to the exterior, fire alarm system installed, fire extinguishers located throughout the building, and that the State Building Code would not require a sprinkler system to be installed in this proposed building, I have no objections to the Board granting the relief for this proposed project. My only concern by granting this request could start a precedent for any future projects that the Zoning Board may have to contend with.

Memo from the Planning Board, dated February 25, 2025 states:

At its meeting on February 10, 2025, the Planning Board considered the Teatown Lake Reservation's request for a variance from the Town Code's mandatory sprinkler system requirement. The Planning Board is satisfied with the proposed fire prevention methods, emergency response methods, and installation of a dry hydrant and therefore has no planning objections to the issuance of said variance.

Memo from the Engineering Department, dated February 24, 2025 states:

A review of the Engineering Department's records indicates that there is no sewer availability to the subject parcel.

Chairman Meisterich said given all that, I am a little concerned with certain things of the memos, particularly the Fire Prevention Board memo, that has many things that speak of hardship, and what I stated earlier was that his is really a variance application to say a sprinkler is not necessary. The purpose of a sprinkler is to basically more quickly put out a fire than a fire department could. So within the memo where the FP board states they are weighing the fact that this is a non-profit, this really is not germane, but the memo does specifically say that the building is designed to exceed the minimum code requirement and the flame spread. Many things were agreed to that satisfied or improved the situation as far as the Fire Prevention Bureau is concerned. I would say the Building Department kind of echo that as well the Planning Board.

Mr. Tripodi said the individuals using this, educational, mostly children, but would there be any adult groups, possibly occupy the building.

Mr. Bunge said yes, on occasion. The primary purpose is education.

Mr. Tripodi asked, the ages of the adult group.

Alan Sorkin, Managing Director of Teatown said we run symposia, we have other non-profits would come and have meetings in our carriage house. There is a wonderful public space that is planned if the plans are approved and so these things happen, maybe one meeting a month, maybe a little less but that is typically the amount of density in terms of these types of events.

Mr. Tripodi asked what hours are these procedures going to be conducted.

Mr. Sorkin said typically it is an evening event from 5:30 ending by 7-7:30pm, does not go much later than that.

Chairman Meisterich said there is a couple of things I guess that cross my mind on this, one is if we said no to the variance, all of this extra design does not have to happen. So the fire resistance of the building just does not even have to be done, the dry hydrant does not have to be done, and the enhancements do not have to be

done, and if you think about the way this building is designed, let us think of a case where there is a fire, there are kids in the building and this is what we are all worried about. It does not seem to me that anyone would not be able to get out of this building within about 2 minutes or less, it is basically opened to the outside. There are no second floor classrooms, stairs or anything impeding egress in any way. The other thing is even a sprinkler requires a fire to turn it on, the actual heat from the fire is what triggers the sprinkler from coming on which takes time.

Mr. Altimari said I think also it is to provide time for the fire department to respond, that is what I was getting at with the gallons of storage and how long was that 500gpm, whatever calculation that they were using to come up with the math.

Chairman Meisterich said I do not mean to be dismissive of the property damage, but this is their property in an isolated building, in a sense the owner is taking the risk on the property, that is could of maybe less damage if there was a sprinkler potentially. It is not like a building where it adjoins another building. So personally I am more concern with the occupants, and whether this building would be in some way improved with a sprinkler as far as the safety of the people. I do not personally see that, and even the building itself. We have seen on the news wildfires, and all this, like even water is not like a fool proof thing, If you have a mechanical system that are responsible to provide water to the sprinkler, that is not all fool proof either, and buildings that were designed to be fire resistant actually fare better.

Mr. Tripodi asked how may fire alarms would be on the premises, and where would they be located.

Mr. Bunge said do not know the details, but it does alert the fire department immediately as well as the occupants. There is strobes and sensors that meet code. It is one fire alarm system.

The Board discussed the application and applied the statutory factors.

Upon motion by Meisterich, seconded by Tripodi, and unanimously voted in favor by Altimari, Gregory, Meisterich, and Tripodi the variance was granted to not require a sprinkler system on the grounds that is it unnecessary in light of viable alternatives that have been presented that meet the objective of what a fire sprinkler system would do. The variance is subject to the applicant adhering to all the plans submitted and adhering to all the materials that were called out on the memo from nARCHITECTS. It is further subject to the applicant conforming to the requirements and / or specifications documented in the memos from Engineering, DTS Provident Design Engineering, the Fire Prevention Board and the Building Inspector.

### **NEW PUBLIC HEARING**

No Public Hearings.

Meeting adjourned at 7:06pm  
Happy Zoning!