

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
SEPTEMBER 24TH, 2020**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, September 24th, 2020. The meeting began at 6:30 p.m.

The following members of the board were present:

Robert Fahey
Gordon Fine
William Gregory
John Meisterich

Also present is Robyn Steinberg, Town Planner/Host. 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 15th, 2020. Mailings are to be sent from September 21st to September 30th, 2020.

NEW BUSINESS

KATT #23/20 This is an application for a special use permit for an accessory apartment.
Property Address:
3528 Gomer St.
Section 17.10, Block 2, Lot 97

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item will be handled administratively, a Public Hearing on October 15th, 2020, and referred to the Building Inspector.

FIORITO #24/20 This is an application for a special use permit for a new accessory apartment.
Property Address:
1625 Central Ave.
Section 48.07, Block 2, Lot 28

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

HAIGHT #25/20 This is an application for the new owner applying for a special use permit for an accessory apartment with 906.5 s.f. where a maximum is 800 s.f. is allowed.
Property Address:
1228 E Main St.
Section 16.10, Block 2, Lot 76

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

DIULIO #27/20 This is an application for a special use permit for a new accessory apartment.
Property Address:
1587 Cross Rd.
Section 15.08, Block 1, Lot 52

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to

the Building Inspector. Site Visits will be done by the Board Members separately.

GREEN #26/20 This is an application for an existing porch with a new roof where a front yard setback of 35.3' is provided but a minimum of 40' is required.
Property Address:
127 California Rd.

Section 48.11, Block 2, Lot 13

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board Members separately.

CHRISTENSEN #30/20 This is an application to allow an existing 8x10 shed with a rear yard setback of 5' where a minimum of 10' is required as per 300-21 and Appendix A of the Town Zoning Code.
Property Address:
708 Garth Court

Section 26.12, Block 3, Lot 37

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board Members separately. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board Members separately.

FETZER #28/20 This is an application for a proposed addition with a rear yard setback of 24' where a minimum of 30' is required as per 300-21, 300-9 and Appendix A of the Town Zoning Code. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board Members separately.
Property Address:
133 Dorchester Dr.

Section 48.07, Block 3, Lot 84

COLOMBINI #29/20 This is an application to allow the partial reconstruction and addition of a house on an existing non-conforming lot of 87,584.21 s.f. where a minimum of 200,000 s.f. is required. The addition will have a side yard setback of 25' where a minimum of 30' is required as per 300-21 and Appendix A of the Town Zoning Code.
Property Address:
1450 Spring Valley Rd.

Section 69.15, Block 1, Lot 3

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on October 15th, 2020, and referred to the Building Inspector. Site Visits will be done by the Board Members separately.

YORKTOWN JAZZ LLC #31/20 This is an application to allow an area of 198 s.f. of building sign coverage where a maximum of 77 s.f. is allowed. Directory signs, each with an area of 6.96 s.f. where a maximum of 4 s.f. is allowed. A directory sign with 20" letters where a maximum of 6" is allowed and a sign area of 62.67 s.f. where a maximum of 35 s.f. is allowed per 300-193.11 and Appendix D of the Zoning Code. **The building and directional signs are for Pad B
Property Address:
3220 & 3216 Crompond Rd.

Section 26.18, Block 1, Lot 18

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Public Hearing on September 24th, 2020, and referred to the Building Inspector and Planning Board. Site Visits will be done by the Board Members

separately.

CONTINUED PUBLIC HEARINGS

SARLO #29/19 This applicant is requesting a special use permit for having a contractor's yard and parking commercial vehicles.
Property Address:
675 Saw Mill River Rd.
Section 59.14, Block 1, Lot
20, 21, 22
Not open. Requested adjournment.

MANNING #18/20 This is an application to legalize an existing shed with a rear yard setback of 6'1" where a minimum of 10' is required as per section 300-14(B) and Appendix A of the Town Zoning Code. This property is located in a R1-20 Zone.
(Amended Application)
Property Address:
304 Alden Rd.
Section 27.10, Block 1, Lot 13
Not open.

NEW PUBLIC HEARING

ACME REALTY #19/20 This is an application for a special use permit for an outside storage area with a 8' fence around it. This property is located in a C-3 zone.
Property Address:
2013 Crompond Rd.

Section 37.14, Block 1, Lot 45

Mailing and sign certification in order.

Eric Spitale, tenant, appeared on applicant's behalf. It is storage for fence company to store fencing materials.

Chairman Fine said there is already storage back there, is that the same storage you are talking about.

Mr. Spitale said it was previously zoned for storage with Cablevision. When Cablevision left their lease it had to be re-applied for.

Chairman Fine asked if he made any changes.

Mr. Spitale said he put a fence up. There was an existing 6ft. fence, he put up and 8ft. fence.

Memo from the Planning Board dated, July 16th, 2020 states:

The Board provides the following comments:

1. The Board sees the location of this Exterior Storage Yard to be compliant to the Town Cord setback standard and believes no nuisance to the surrounding businesses and property owners will be created.
2. The location does not disrupt the current traffic on the subject lot nor to any of the neighboring lots or road ways.

The Board has no objections to the granting of the special use permit as requested.

Memo from the Assistant Building Inspector dated, July 17th, 2020 states:

This is an application for a special use permit for an outside storage area with a 8' fence around it. This property is located in a C03 zone. I inspected this property on July 14, 202. The storage yard appears to be in or very close to a wetland. In speaking with Planning, I was able to obtain a Town Board resolution, back from 1993, granting a conditional wetland permit to allow temporary parking of cars in this area. I was unable to obtain a site plan but this appears to be the area. It was effective for a 2 year period and to be renewed at the end of that period. It was restricted to non-commercial, employee vehicles.

From what I can gather, in the past this area was being used by Cablevision for storage, although not legally. I have no objections of granting this special use permit as long as all regulations and permits are followed.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, the application for a special use permit for an outside storage area with a 8' fence around it was granted, and limit the use of it to storage being limited to within the storage area alone, and the applicant must obtain any required permits that the Town requires based on the property location.

MAZZELLA #20/20 This is an application to allow a building lot with an area of 10,000 s.f. where a minimum of 20,000 s.f. is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in
Property Address: 2060 Allan Ave.
Section 37.18, Black 2, Lot 30 a R1-10 zone.

Mailing and sign certification in order.

John Barile and Louis Panny, Builders, representing the applicant.

Mr. Barile said they are looking to build a single-family house. 20,000 s.f. is needed and looking for a variance.

Chairman Fine asked if any plans were submitted, there was no plans in the file.

Mr. Barile said the plans were submitted.

Memo from the Engineering Department dated, September 24, 2020 states:

The Engineering Department has reviewed plans for the subject property:

- Existing Conditions/Site Plan for PanBar Realty, LLC, prepared by John Karell, Jr., P.E., dated 5/4/20, 1 sheet.
- Environmental Assessment Form, dated 7/7/20

We note this project was previously submitted to the Engineering Department for a permit and it was referred back to the Building Inspector for further review and action due to the following issues.

- In the Environmental Assessment Form, Question #5, it stated this project is permitted by zoning regulations but the lot size is insufficient.
- A single family home was recently approved on the adjacent lot (#2040 Allan) and included an extensive underground stormwater detention system to prevent runoff from affecting existing homes on the downhill slope.

We offer the following technical review comments to the Board:

1. Question #2 and #5 of the EAF should be revised to indicate all required project approvals and permits. We note the proposed work will require the following Engineering permits:
 - MS4 Stormwater Management
 - Tree Removal
2. We recommend incorporating the same requirements that were put in place for #2040 Allan Avenue, i.e. a stormwater detention system in the rear that is designed to retain runoff from a 100-year storm event.
3. In the northeast corner of the site, the plans show a lawn inlet/underground structure with a discharge pipe into an adjacent private property. This structure and pipe needs to be investigated and/or removed so there are no adverse affects of the development on adjacent properties.
4. As currently shown, the plans indicate a 4-foot high retaining wall will be constructed along the north property line. Need to provide more information on the drainage for this wall so we can confirm there will be no adverse affects of the development site on adjacent properties.
5. As currently shown, the plans indicate the driveway will be at 13% slope, which exceeds the maximum allowable slope of 10%.

The Applicant can contact this office if there are any questions regarding the above items. We can also meet with the Applicant so that we can review documents and give further guidance if needed.

Memo from the Assistant Building Inspector dated, August 18, 2020 states what the application is for.

Chairman Fine asked Mr. Barile and Mr. Panny if they have a set of plans that show the actual built structure on the property. As was mentioned by the Engineering Department the Board did a very similar application next door, and there were couple of issues. One of which was the fact that it was a very steep sloped property and also there were issues regarding the stormwater. So, as they stated in the memo, the other applicant had an extensive stormwater treatment and retention plan that they submitted for review prior to the granting of the application. Do not know if you prepared anything like that yet.

Mr. Panny said he addressed the stormwater items, apparently the lot next door had hit an underground spring and that is why they had so much water going in. We do not have that we have already done the perc and everything that we need for the Town Engineer.

Chairman Fine said you will have runoffs from the slope coming off of Allan.

Mr. Panny said they have already address that with the Engineering Department.

Chairman Fine said the Engineer says he is waiting for plans.

Mr. Panny said maybe when they originally submitted, but since then they have submitted them.

They have done the testing, did the perc and have design a system.

Chairman Fine said the Engineer has not seen it according to the memo. He does not discount what he is saying, the Engineer is saying he does not have it.

Mr. Panny said his department was out with them doing the perc test.

Mr. Gregory said maybe he needs more information, or you need to have a discussion with him.

Mr. Panny said he will have a discussion with him.

Chairman Fine said since the Board does not have access to the plans, the applicant should see what they can take care of with Mr. Quinn (Engineering) and whatever other departments he refers them to between now and October 15th meeting and hopefully we will have plans submitted back to us for next month meeting, and have a stormwater plan also.

Mr. Fahey asked Mr. Panny as far as what you are proposing with stormwater management, is it compatible with the system that was put in at the house that was just constructed or is there a way of measuring the compatibility, or does each one operate on their own.

Mr. Panny said it is basically design for the amount of perc and how much water can be collected and stored through the storm. Have done all the calculations and submitted them to Mr. Quinn.

Chairman Fine asked if there was any other comments.

Michael Epting, neighbor, said he has lived at 2030 Allan Avenue for the last 31 years. In considering the merits of this application the Zoning Board would evaluate 5 criteria.

First, is the variance requested substantial. Since the 1970's the Yorktown code has required a parcel with an area of 20,000 s.f. to be a legal buildable lot. This variance to allow a 50% reduction in area for buildable lot is a very substantial reduction. To say that the neighborhood is mostly made up of 10,000 s.f. substandard lots misses the point. These houses were built on standard lots at the time of their construction when 10,000 s.f. were the Town code. In addition when I and my neighbors purchased our homes our expectations was that there could only be 1 lot built on the entire neighboring parcel which comprises of 2 10,000 s.f. lots, both owned by the same 2 previous owners. One only have to look 100 ft. south of my house to see an example where the house was built on 2 of the smaller 10,000 s.f. lots which were combined to make a legal buildable lot. Why should we have expected anything different would occur on the other side of our property. In summary, this variance is very substantial and should be rejected.

Second point, will the variance cause an adverse affect on the neighborhood. As you can easily see from Allan Avenue, this lot have a very steep slope throughout its area ranging from 15-25% from the west to the east of the property line. In fact the slope of the lot is so steep is requires that the Town Board evaluate and potentially approve this variance. This lot is even steeper than the neighboring lot where RPG recently completed construction of a house next door. The steep slope and the smaller area of the lot makes it impossible to construct a house on Mazzella lot without

spilling over onto the neighboring properties. How do I know this, you do not have to take my word. All you need is to do is look at the property boundary with the neighboring house at 2052 to see that RPG construction debris has encroached at least 10 ft. onto Mazella property. This was not an accident but it was a necessity of bringing in so much fill to the 10,000 s.f. lot. RPG found it impossible to work in such a confined area and they had to spill over onto the neighboring property during the site work and construction, this happened over the last year and change. How would excavator and dump trucks navigate such a small area without having a buffer to allow them to work, and which property will they spill on to in the course of the construction causing inconvenience and damage to neighboring properties.

In addition to the steep slope of the lot there are overhead utility lines spanning the length of the lot along Allan Avenue. How will thousands of cubic yard of fill be delivered by dump trucks without bringing down these lines. How will a crane maneuver around these lots without contacting them. How will huge trailers containing sections of a modular home, not sure if it is going to be stick built or modular, but it was a modular next door. How will they navigate these wires to deliver the sections to the site.

Chairman Fine asked Mr. Epting how did they do it next door.

Mr. Epting said next door the utility lines cross the street so they did not have to deal with those lines on the same side because the lines cross Allan Avenue and were on the opposite side of the road.

On this lot the utility lines are on the same side as the lot construction site.

Finally, where will the contractors parked their trucks for delivering materials to the site. RPG routinely used the street along Allan Avenue. With such narrow site to work with how will they confine their vehicular traffic to the area along Mazzella property without spilling over to the now new house and other properties along Allan.

Third point, is the current difficulty self created. Of course the current difficulty has been self created by the current owner who purchased the lot half the size of a legal building lot. If Allyn Mazzella, if it was her intent to have a house built in Yorktown, why would she have purchased only half of a legal lot when both lots were clearly available at the day of the purchase. The neighboring lot was sold for exactly the same price \$25,000, on the same day November 14, 2017. It should not be up to the Zoning Board to remedy this dilemma when there was obvious viable alternative.

Chairman Fine said that is exactly what our legal definition of the Zoning Board is, is to resolve dilemma like that.

Mr. Epting continued, point four. Will the proposed variance change the character of the neighborhood. With a narrow and busy road without sidewalks such as Allan Avenue, any additional house will add to congestion and shortage of parking in the immediate neighborhood. Non of the houses on the east side of Allan including mine are able to use their garages during winter due to the steep downward sloping driveway and the possibility of being stranded with a car at the bottom of the icy and snow covered driveway, even with the possibility of a dusting of snow overnight makes these driveways unusable for at least four months a year. Assuming a minimum of two cars per household at least two additional street level parking spot should be included in the plans for the months when garages are not accessible, and of course this will increase the amount of impervious surface which will only add to the stormwater runoff. With the additional residence and cars on Allan Avenue this narrow street will become even more crowded with cars which could also increase the possibility of an accident between on coming cars or with a pedestrian. There are no sidewalks on the street, we do have numerous school children walking to and from the bus stop on the street. We also have cyclists and dog walkers who must be constantly alert for traffic since cars frequently speed up in this area between the traffic calming devices that have been placed all along Allan. Finally, can the owner's plan be achieved in another way. Obviously the owner of this lot Allyn Mazzella does not intend to live in Yorktown, is only in this financial arrangement for the money just as Diane Prov the owner of the neighboring lot had no intention of living in Yorktown either.

Recently the buyer of the new house have told me that they were interested in buying Mazzella vacant and tree lot to expand their yard and provide a buffer to the neighboring properties. If the

neighbors and Mazzella could agree on a deal, the neighborhood and the Town would benefit from have one fewer house built on a very small substandard and very steep lot that will be very problematic to develop due to the issues discussed. This is just one way Mazzella could realize the significant financial return on her investment without cutting down the trees on the lot and having it developed.

In summary, based on the five criteria to be considered and the points discussed this evening, believe that the case is clear to reject this application for an area variance and urge you strongly to consider these points when you consider the kind of neighborhood you would create on Allan Avenue when you make your decision.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, this item is adjourned so the applicant can supply the information requested by the Engineering Department as well as any other information that might be needed.

AHMED #21/20 This is an application for a new accessory apartment. The apartment will have a floor area of 1148 s.f. where a maximum of 800 s.f. is permitted and an entrance in the front where only 1 main entrance is permitted on a front side of a building per sections 300-21,300-38(B) 4 and 5 of Town Zoning Code.
Property Address:
1271 Fairhills Dr.
Section 69.16, Black 1, Lot 10

Mailings and sign certification in order.

Jorge Hernandez, Architect, appear with the applicant.

Memo from the Assistant Building Inspector dated, September 10, 2020 cited no objections, a certificate of occupancy is required for the accessory apartment.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Meisterich, the application for a special use permit was granted for a period of three (3) years, for a new accessory apartment. The apartment will have a floor area of 1148 s.f. where a maximum of 800 s.f. is permitted and an entrance in the front where only 1 main entrance is permitted on a front side of a building per sections 300-21,300-38(B) 4 and 5 of Town Zoning Code.

AHMED #22/20 This is an application to construct an addition with a front yard setback of 70.07' where a minimum of 75' is required and a side yard setback of 23.26' where a minimum of 30' is required. This proposed addition will have an accessory apartment with a floor area of 1148 s.f. where a maximum of 800 s.f. is permitted and an apartment entrance in the front where only 1 main entrance is permitted on the front side of a building. Required variance are per 300-21, Appendix A and 300-38(B)4 and 5 of the Town Zoning Code. This property is located in a R1-80 zone.
Property Address:
1271 Fairhills Dr.
Section 69.16, Black 1, Lot 10

Mailings and sign certification in order.

Jorge Hernandez, Architect, appear with the applicant.

This is for an apartment for the applicant's parents. Was in front of ABACA to show them the architectural components of the project. The owner parents apartment will be about 1148 sq.ft.. The reason they located the apartment on that side is they are trying to maintain the aesthetics of the house and matching both wings, left and right of the house.

Chairman Fine asked if the part of the house that is going to be the accessory apartment has been built yet or partially built and adding the addition.

Mr. Hernandez said the accessory apartment will be totally on the addition, has not been built yet.

Chairman Fine asked why does it have to be larger than the law permits.

Mr. Hernandez said aesthetics, they went to architectural review board, wanted to make sure the aesthetics of the house, and if they reduce the amount of the apartment would be much smaller.

Mr. Ahmed said his parents do not need an 1100 sq.ft apartment to live. The only reason why it

became of the way the house did not want the shape wrong. Want to mimic whatever is on the right, want to copy it and put it on the left to make the house symmetrical.

Memo from ABACA dated, August 25, 2020 states:

The ABACA feels that while the proposal is larger than allowable and requires multiple variances, the addition of the accessory apartment is small relative to the scale of the house. The Board appreciates that the addition matches the original architecture and fits nicely into the existing neighborhood. The Board also notes that while the entrance to the accessory apartment is in the front yard, it is located on the side façade of the proposed addition closest to the parking and is not visible from the street.

The ABACA has no objections to the plans as presented.

Mr. Hernandez showed the plans and discussed with the Board the layout and size of the addition.

Memo from the Assistant Building Inspector dated, September 10, 2020 states:

This is an application to construct an addition with a front yard setback of 70.07' where a minimum of 75' is required and a side yard setback of 23.26' where a minimum of 30' is required. This proposed addition will have an accessory apartment with a floor area of 1148 s.f. where a maximum of 800 s.f. is permitted and an apartment entrance in the front where only 1 main entrance is permitted on the front side of a building. Required variances are per 300-21, Appendix A and 300-38(B)4 and 5 of the Town Zoning Code.

I have inspected the property on September 9, 2020 and have no objections. The applicant should be advised that a building permit and certificate of occupancy is required for the addition and a certificate of occupancy is also required for the accessory apartment.

The Board members discussed the size of the addition.

Mr. Meisterich asked if there was a way to impose some restrictions.

Chairman Fine said you are going to impose something that will be impossible to enforce.

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, and Meisterich, the application for a variance was granted to construct an addition with a front yard setback of 70.07' where a minimum of 75' is required and a side yard setback of 23.26' where a minimum of 30' is required. This proposed addition will have an accessory apartment with a floor area of 1148 s.f. where a maximum of 800 s.f. is permitted and an apartment entrance in the front where only 1 main entrance is permitted on the front side of a building. Required variances are per 300-21, Appendix A and 300-38(B)4 and 5 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 addition be built in substantial conformity to plans submitted.

Recording Secretary, Glenda Daly

Meeting adjourned at 7:45pm

Happy Zoning!