

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS**  
**September 22<sup>nd</sup>, 2022**

The regular monthly meeting was held for the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, September 22<sup>nd</sup>, 2022. The meeting began at 6:30 p.m.

The following members of the board were present:

Robert Fahey  
Gordon Fine  
William Gregory  
John Meisterich  
Anthony Tripodi

Also present is Special Counsel, Adam Rodriguez, and Kyra Brunner, Legal Secretary. 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 27<sup>th</sup>, 2022, site visits are scheduled for October 22<sup>nd</sup>, 2022. Mailings are to be sent from October 3<sup>rd</sup> to October 12<sup>th</sup>, 2022.

**NEW BUSINESS**

**CONTINUED PUBLIC HEARINGS**

**CARVALHO #44/20** This is an application to subdivide a lot creating 2 lots under the required 10,000s.f. where a minimum of 20,000 s.f. is required. This property is located in a R1-10 zone.  
**Property Address:**  
**1681 Summit St.**  
**Section 48.07, Block 2, Lot 9**

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

**GRACE #45/20** This is an application to allow a caretaker's cottage as per 300-47 of the Town Code. This property is in a R1-80 zone.  
**Property Address:**  
**959 Hanover St.**  
**Section 59.07, Block 1, Lot 4**

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

**TAMBURELLO #9/21** This is an application for a special use permit for a new accessory apartment.  
**Property Address:**  
**3061 Oak St.**  
**Section 25.12, Block 2, Lot 5**

Application withdrawn at applicant request.

**CLIFFORD #22/22** This is an application to allow the sub-division of an existing single-family lot into two nonconforming lots. One fronting on Central Street and one fronting on Summit Street.  
**Property Address:**  
**1625 Central St.**  
**Section 48.07, Block 2, Lot 28**

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

**WALLACK FAMILY LTD #23/22** This is an application to allow construction of a new barn (accessory building) with a height of 30'2" where 15' is allowed as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-40/R-160 zone.  
**Property Address:**  
**1549 Jacob Rd.**  
**Section 36.13, Block 1, Lot 14**

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

**RODRIGUEZ #28/22** This is an application for a special use permit for a new accessory apartment.  
**Property Address:**  
**898 Parkway Pl.**  
**Section 16.11, Block 1, Lot 26**

Mailings and sign certification in order.  
Sonia Rodriguez present.

Memo from the Assistant Building Inspector, dated June 21, 2022 states:  
Memo from the Assistant Building Inspector, dated September 15, 2022 states:  
Upon review of the plans the applicant will require a variance for the accessory apartment for floor area of 1080 square feet where 800 square feet is the maximum allowed as per 300-38B( 5)  
I inspected this property on June 21, 2022 and found no apparent violations. I have no objections to granting a special permit. This application will require a building permit and a certificate of occupancy.  
The floor area was changed to 1080msquare feet.  
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, the application for a special use permit for a new accessory apartment was granted for a period of three years.

**LACHTERMAN #34/22** This is an application for a special use permit for the parking of a commercial vehicle in a residential area as per section 300-62 of the Town Zoning Code.  
**Property Address:**  
**201 Montross Rd.**  
**Section 48.11, Block 3, Lot 32**

Michael Grace, Attorney, representing the Applicant.  
Mr. Grace said as you may recall, the gentleman that owns the property has a mobile ice cream parlor, it is a van type vehicle that is label Ice Cream Emergency. The plan is building a barn in the back and one of the impediments to moving forward the last time we were here is essentially a paper road.  
Chairman Fine said he was going to buy it from the Town.  
Mr. Grace said yes, the Town has resolve to quit claim its rights in the road bed to his half of the road which he would own anyway by operation of law.

Chairman Fine said so he was going to build a pole barn on that piece of property, right. Mr. Grace said yes, that is an application in the Building Department, no variance is required For that at all, so we would ask that the permit for storage be granted on condition that it is stored in the to be built barn.

Chairman Fine said are there any plans for the barn.

Mr. Grace said they are in the process, essentially it is going to be conforming accessory structure.

Chairman Fine said how long you think it would take to have the pole barn completed.

Mr. Grace said now that the issue with the town road has been resolved, construction probably be in October.

Chairman Fine asked how long until it is done.

Mr. Grace said the Amish are coming, I do not know, maybe 24 hours the way they do it, they are quick. He wants to get it done obviously before the weather change.

Mr. Gregory asked any issue with the height.

Mr. Grace said the barn completely complies with code, otherwise I would have combined it with this application.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, the application for a special use permit for the parking of a commercial vehicle in a residential area as per section 300-62 of the Town Zoning Code, was granted for a period of three years, with the condition that the vehicle be stored in the pole barn to be built and that the barn must be completed within 90 days of the date of the decision.

**MARSOCCI #37/22** This is an application for a special use permit for a farm as per section 300-45 of the Town Zoning Code.  
**Property Address:**  
**1225 Whitehill Rd.**  
**Section 17.10, Block 3, Lot 49**

Myra Marsocci present.

Chairman Fine said last time we left off we were waiting for comments from the Conservation Board.

Memo from the Conservation Board, dates August 1, 2022 states:

The Conservation Board is in receipt of the response from Ms. Myra Marsocci to the Conservation Board's original memo dated 7/22/2022 and is in agreement that the project move forward.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, the application for a special use permit for a farm as per section 300-45 of the Town Zoning Code.

**MARSOCCI #38/22** This is an application for an accessory structure without a principle structure in a R1-40 zone as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**1225 Whitehill Rd.**  
**Section 17.10, Block 3, Lot 49**

Not required. Permitted use.

**ELEZAJ #39/22** This is an application to legalize three (3) accessory apartments in a single family home with an existing non-conforming cottage making the total of four (4) dwelling units in a single family district.  
**Property Address:**  
**1658 Amazon Rd.**  
**Section 25.12, Block 2, Lot 32**

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

Meisterich, and Tripodi, this item is adjourned as requested.

**ELEZAJ #40/22** This is an application to allow two (2) primary structures on a lot where one (1) is permitted as per section 300-21C(1)(a)[1], to allow a combined floor area of 3 accessory apartments of 1835 square feet where 800 square feet accessory apartment is permitted as per section 300-38B(5), to allow usage of property that is not owner occupied as per section 300-38B(8), and to allow four (4) accessory apartments where one (1) is permitted in a R1-40 zone as per section 300-38B(9).  
**Property Address:**  
**1658 Amazon Rd.**  
**Section 25.12, Block 2, Lot 32**

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

**NEW PUBLIC HEARING**

**YORKTOWN OFFICE WAREHOUSE #42/22** This is an application to renew an existing special use permit for a day care facility per section 300-53 of the Town Zoning Code.  
**Property Address:**  
**2985 Navajo St.**  
**Section 6.18, Block 1, Lot 29**

Mailings and sign certification in order.  
Mark Purcelli present.  
Chairman Fine asked if anything new was put in there.  
Mr. Purcelli said no.  
Chairman Fine asked, same amount of students.  
Mr. Purcelli said whatever they are license for by the state, the same as far as I know.

Memo from the Assistant Building Inspector, dated September 15, 2022 states:  
This facility was inspected by the Fire Inspector on July 13, 2021 with no violations. I also inspected the site on September 15, 2022 and found no apparent violations.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fine, Gregory, Meisterich, and Tripodi, the application to renew an existing special use permit for a day care facility per section 300-53 of the Town Zoning Code was granted for a period of three years.

**BIEBEL #43/22** This is an application for a renewal of a special use permit for an accessory apartment.  
**Property Address:**  
**1331 Echo Hill Path**  
**Section 47.19, Block 1, Lot 20**

Mailings and sign certification in order.  
Denise Biebel present.  
Memo from the Assistant Building Inspector, dated September 19, 2022 states:  
I inspected this property on September 19, 2022 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 Fine, Gregory,

Meisterich, and Tripodi, the application for a renewal of a special use permit for an accessory apartment was granted for a period of three years.

**ALIHAJDARAJ #45/22**

**Property Address:**

**830 Barberry Rd.**

**Section 26.12, Block 1, Lot 14**

This is an application to legalize a shed with a side yard setback that is 3.5ft where 10ft is required as per section 300-21 and Appendix A of the Town Zoning Code

Not open. Mailings and sign certification not complete.

**RODRIGUEZ #46/22**

**Property Address:**

**898 Parkway Pl.**

**Section 16.11, Block 1, Lot 26**

This is an application to allow a floor area of 1300 square feet where 800 square feet is the maximum allowed for an accessory apartment as per section 300-38B of the Town Zoning Code.

Mailings and sign certification in order.

Sonia Rodriguez present for the meeting. The application is for special permit for a new accessory apartment.

Chairman Fine said and you live in the main house.

Ms. Rodriguez said yes.

Chairman Fine asked how many stories is the main house.

Ms. Rodriguez said one level.

Chairman Fine asked you want to put the apartment in the basement?

Ms. Rodriguez said yes.

Chairman Fine said is the apartment the full basement.

Memo from the Assistant Building Inspector, dated September 15, 2022 states:

I inspected this property on June 21, 2022 and again on September 15, 2022

found no apparent violations. I have no objections to granting a special permit.

This application will require a building permit and a certificate of occupancy.

Chairman Fine said so the limit is 800 square feet, why is it 1300 square feet.

Ms. Rodriguez said we have no idea, that is how the architect did it, and then told us to do an application for the variance.

Mr. Meisterich said he reviewed the plans and it seems like the laundry room, there is a door into the apartment, and the actual apartment in the basement is 1080 square feet.

Chairman Fine said so you are including the utility room as part of the square footage, is that the issue.

Ms. Rodriguez said I think that is what she said, honestly I have no idea how she did it.

Mr. Fahey asked how do you get your heat.

Mr. Rodriguez said electric.

Mr. Meisterich said it looks like this plan was amended from the last time I remember seeing it. The apartment on the ground floor, there is a door into the apartment, and laundry, and hallway, and hot water heater is now not in the apartment anymore.

Chairman Fine said is that decreasing the size of the 1300.

Mr. Meisterich said yes, it is making it 1080 square feet.

Chairman Fine said but they still have the same variance.

Mr. Meisterich said we could amend it.

Mr. Gregory said the only thing that I am going to say is that basically at the end of the day, the applicant is asking for a 1300 square feet, I am a little bit concern about amending the square

footage on the fly. So the thing is if the applicant is basically indicating there was 1300 square feet for the apartment, then I would prefer to stay with it as appose to trying to figure out what is there or not there.

Mr. Fahey said we could also adjourn it till next month and they could come back and verify it and tell us what we got.

The Board discussed the square footage of the basement.

Chairman Fine told the applicant, this is what we are saying. Your application is a variance of a 1300 square feet apartment, that 1300 square feet encompasses the entire basement. What we are saying is true but the entire basement is not the apartment, piece of the basement was cut off as common space between the two units, if you take off that common space, that being the laundry room, you are down to 1080 square feet instead of 1300. That is what we are saying we are not saying you cannot use the laundry room or anything, we are just saying it would change the number in the variance, it is a smaller variance than what you are asking for.

Chairman Fine asked where are you going to be parking the cars.

Ms. Rodriguez said we have 2 parking spots on the driveway.

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 Tripodi, the application for a variance was granted for the creation of an accessory apartment with a square footage of 1080 square feet where 800 square feet is the maximum allowed for an accessory apartment as per section 300-38B of the Town Zoning Code. With the stipulation it pertains only to the requested variance and not the remainder of the property line, and that it be built in substantial conformity to the plans submitted.

**JENNINGS #47/22**

**Property Address:**

**79 Somerston Rd.**

**Section 17.10, Block 1, Lot 3**

This is an application to allow construction of an attached garage with a side yard setback of 8.5ft where 15ft is required, where a total of two sides is 22.3ft where 40ft is required, and a front yard setback of 35.09ft where 40ft is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 Zone.

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant.

Chairman Fine said we were just there recently on a different application.

Mr. Tetro said yes, we originally came in with this application for the garage with an addition to the master bedroom as part of it.

Chairman Fine said we did a site visit, it looks like, correct me if I am wrong, the only change is that you are coming forward a little more.

Mr. Tetro said and we are dropping it down to 1 story, not adding the upper store addition on. They really needed the storage space for their vehicles and everything and they did not really need the addition to the bedroom, and it would not have been an issue except that we are asking now in addition to the side yard, which was granted, we are asking for a front yard setback of 35.09ft. because we are coming forward. So the scale of it in terms of its height has been reduced but its footprint was enlarged towards the front of the house.

Memo from the Assistant Building Inspector, dated September 15, 2022 states:

This is an application to allow construction of an attached garage where side yard variances are needed, one side is 8.5 ft. where 15 ft. is required and total of two sides is 22.3 ft. where 40 ft. is required. (Previous variance approved # 16/ 22) and a front yard variance of 35.09 ft. where 40 ft. is required for as per 300-21 and

Appendix A of the Town Zoning Code. This property is located in a R1- 20 zone. I have inspected this property on September 15, 2022 and found no apparent violations. I have no objection granting relief for requested variances. The applicant will need a building permit and certificate of occupancy for this project.

Mr. Gregory said the variance that was granted back in January or February is it still needed in order to do the project.

Mr. Tetro said correct.

Chairman Fine said does this encompasses that as well thou?

Mr. Tetro said no, we were granted that, and this is question that I asked the last time we were here.

Mr. Gregory said the variance application was granted for the side yard.

Mr. Tetro said correct.

Mr. Gregory said the only think that is new now is the front yard.

Mr. Tetro said correct.

Mr. Gregory said so I am just wondering whether or not we have to repeat.

Chairman Fine said this application says attached garage with a side yard setback of 8.5 feet where 15 is required, is that what the previous one says.

Mr. Tetro said yes.

Chairman Fine said so this encompasses that as well.

Mr. Gregory said right, and I guess what I am saying is can we modify it to say, because we have already granted, can we modify it.

Mr. Fahey said if he changes the plans does that not constitute he will have to re-notice.

Chairman Fine said because the other decision says as per plans submitted, and that is changing.

So what I would do is basically state is this decision is this voids out the previous decision because it encompasses it.

Mr. Tetro said yes, cause it was never built so it is not like it is existing and we are holding that number, so I was not sure if it was a modification to the application and when you and I spoke, I think it was just come in with a new application and since the side yard was granted already it would just work into this application for now.

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 Tripodi, the application for a variance was granted to allow construction of an attached garage with a side yard setback of 8.5ft where 15ft is required, where a total of two sides is 22.3ft where 40ft is required, and a front yard setback of 35.09ft where 40ft is required as per section 300-21 and Appendix A of the Town Zoning Code. With the stipulation it pertains only to the requested variance and not the remainder of the property line, that the addition be built in substantial conformity to the plans submitted, and that this decision will void out the previous decision that was requested for the same project.

**WILLIAMS #48/22**

**Property Address:**

**2086 Defoe Ct. 2**

**Section 37.18, Block 2, Lot 1**

This is an application for an addition with a rear yard setback of 21.69ft where 30ft is required as per 300-21 and Appendix A of the Town Zoning Code.

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant.

Mr. Tetro said it is an addition off the back of their house, currently there is a deck off the back of the house and are taking the deck down and putting in a 1 story family room addition, and we are reconstructing the deck along side of it. The issue with this property is it has a very small rear yard for it setback, so we are encroaching into the rear yard.

Memo from the Assistant Building Inspector, dated September 15, 2022 states:  
This is an application for an addition that requires a rear yard variance of 21.69 ft where 30 ft. is required as per 300-21 and appendix a of the Town Zoning Code. I have inspected this property on September 15, 2022 and found an above ground pool that had no permit and must be legalized with a building permit and C. O. For the variance requested I have no objection granting relief. The applicant will need a building permit and certificate of occupancy for this project.

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 Tripodi, the application for a variance was granted for an addition with a rear yard setback of 21.69ft where 30ft is required as per 300-21 and Appendix A of the Town Zoning Code. With the stipulation it pertains only to the requested variance and not the remainder of the property line, and that the addition be built in substantial conformity to the plans submitted.

**SAVASTANO #49/22** This is an application for a raised 2nd story of a non-conforming structure with a front yard setback of 22ft where 75ft is required and a lot area of 15,000 sq ft. where 80,000 sq ft. is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address: 950 Starlight Rd.**  
**Section 59.10, Block 2, Lot 14**

Mailings and sign certification in order.  
Anthony Savino, contractor, along with Mark and Brittany Savastano present.  
Mr. Savino said it is not a conforming lot, currently right now we are at a 22ft. setback, says it is required to be 75ft. and we have an application for the roof that is going to be replaced.  
Chairman Fine said one of the questions we have, why is the addition going up instead of to the side, it seems like you have some side yard.  
Mr. Savino said the whole roof has to be, basically what we are doing is restricting the roof and conformance. The whole roof has to be ripped off and has to be ripped down to the first floor. It is in depilated shape as you can see, and most importantly it will have to be restructured. So based off the Building Inspector notes and so forth, they specify that they require that obviously when we did anything that we would be reconstructing the top of the roof as well.  
Mr. Meisterich said is it going to change, like a semi second story up there.  
Mr. Savino said it is going to stay the same.  
Chairman Fine said is it going to be higher.  
Mr. Savino said no.  
Chairman Fine said no height variance required.  
Mr. Savino said no height variance required.

Memo from the Assistant Building Inspector, dated September 15, 2022 states:  
This is an application to raise the 2nd story of a non-conforming structure that requires a variance for a front yard setback 22FT where 75Ft is required. This property is non-conforming with lot area of 15,000 square feet where 80,000 square feet is required as per section 300-21 and appendix A of the Town Zoning Ordinance. This property is in an R1-80 district  
I inspected this property on September 14, 2022 and have no objections to granting relief requested. This application will require a building permit and a certificate of occupancy.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, the application for a variance was granted for a raised 2nd story of a non-conforming structure with a front yard setback of 22ft where 75ft is required and a lot area of 15,000 sq ft. where 80,000 sq ft. is required as per section 300-21 and Appendix A of the Town Zoning Code. With the stipulation it pertains only to the requested variance and not the remainder of the property line, and that the addition be built in substantial conformity to the plans submitted.

**DINEEN-CAREY #50/22**  
**Property Address: 2090**  
**Crompond Rd.**  
**Section 3714, Block 2, Lot 8**

This is an application to allow a 18 sq ft. wall sign on the side of the building where 4 sq ft. is allowed as per section 300-21 and Appendix C of the Town Zoning Code.

Mailings and sign certification in order.

Kathleen Dineen and Mini Dineen-Carey present.

Chairman Fine said this is for a sign on the side of the Pied Piper School, correct.

Ms. Dineen said correct.

Memo from the ABACA, dated August 11, 2022 states:

The Advisory Board on Architecture and Community Appearance reviewed the above referenced subject at their meeting held on Tuesday, August 9, 2022. The application is for a variance request to allow an 18- sf wall sign on the side of the building where 4- sf is allowed per the code.

The ABACA has no objection to the variance request and signage as presented.

Memo from the Planning Board, dated September 12, 2022 states:

At its meeting on August 15, 2022, the Planning Board discussed the subject application to allow an 18 square foot wall sign on the side of the building where 4 square feet is allowed.

The Planning Board had no objections to the sign as proposed.

Memo from the Assistant Building Inspector, dated September 15, 2022 states:

This is an application to allow an 18 square foot wall sign on the side of the building where 4 square feet is allowed, as per section 300- 21 and appendix C of the Town Zoning Code. This property is in an R1- 10 district.

I inspected this property on September 15, 2022 and have no objections to granting relief requested.

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 Tripodi, the application for a variance was granted to allow a 18 sq ft. wall sign on the side of the building where 4 sq ft. is allowed as per section 300-21 and Appendix C of the Town Zoning Code. With the stipulation that the sign be constructed per the plans submitted.

**O'DONNELL #51/22**  
**Property Address:**  
**1405 Turus Ln.**  
**Section 16.17, Block 1, Lot 48**

This is an application to allow a 6'6" fence located in the front yard where 4'5" is permitted as per section 300-13F and Appendix A of the Town Zoning Code.

Applicant not present. Marked final.

Chairman Fine requested letter be sent to the applicant.

Recording Secretary, Glenda Daly  
Meeting adjourned at 7:18pm  
Happy Zoning!