

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
OCTOBER 27TH, 2016**

The regular monthly meeting was held at the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York on Thursday, October 27th, 2016. The meeting began at 6:30 p.m.

The following members of the board were present:

Gregg Bucci
Robert Fahey
Gordon Fine
William Gregory
John Meisterich

Also present is Special Counsel, Anna Georgiou. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held on December 8th, 2016, site visits are scheduled for December 3rd, 2016. Mailings are to be sent from November 14th and November 23rd, 2016.

ADDED AGENDA

**MARIE D'ASCOLI TRUST
#68/16**

**Property Address:
1590 Westview Dr.**

Section 48.09, Block 1, Lot 17

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item will be handled administratively and referred to the Building Inspector.

This is an application to renew a Special Use Permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is in an R1-40 zoning district.

KURIAN, BABU & SARAH

#69/16

**Property Address:
1822 Morris Lane**

Section 25.16, Block 1, Lot 5

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item will be handled administratively and referred to the Building Inspector.

This is an application to renew a Special Use Permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is in an R1-20 Zoning District.

KURENS/HERNANADEZ

#70/16

**Property Address:
2175 Sultana Dr.**

Section 37.19, Block 1, Lot 76

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item was scheduled for a Site Visit on December 3rd, a Public Hearing on

This is an application for a Special Use Permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is in an R1-40 Zoning District.

December 8th, and referred to the Building Inspector.

**STRINGER, THOMAS & ELISE
#71/16**

Property Address:
2019 Etna Place
Section 37.14, Block 1, Lot 88
Not open.

This is an application to allow an existing accessory structure with a front yard setback of 22' where a minimum of 30' is required and a side yard setback of 9.5' where a minimum of 12' is required per Section 300-21 and Appendix A of the Yorktown Zoning Code. This property is in an R1-10 Zoning District.

**NARSINGH, PAUL & NIKITA
#72/16**

Property Address:
3208 Douglas Dr.
Section 17.19, Block 1, Lot 47

This is an application to allow an existing extension with a rear yard setback of 36.08 feet where a minimum of 40 feet is required as per section 300-21 and Appendix A of the Yorktown Zoning Code. This property is in an R1-20 Zoning District.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item was scheduled for a Site Visit on December 3rd, a Public Hearing on December 8th, and referred to the Building Inspector.

**SERAFIN, STANLEY & GINA
#73/16**

Property Address:
415 Spring Drive
Section 48.18, Block 2, Lot 41

This is an application to allow a proposed addition with a front yard setback of 48.5 feet where a minimum of 50' is required as per section 300-21 and Appendix A of the Yorktown Zoning Code. This property is in an R1-40 Zoning District.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item was scheduled for a Site Visit on December 3rd, a Public Hearing on December 8th, and referred to the Building Inspector.

**YANCOPOULOS, KAREN
#74/16**

Property Address:
1280 Echo Hill Path
Section 47.19 Block 1, Lot 22

This is an application for a variance pertaining to a proposed accessory apartment (special use permit, Section 300-38 of the Town of Yorktown Zoning Code) where the proposed accessory apartment will have a usable floor area of 1240 square feet which exceeds the maximum permitted 800 square feet, and which exceeds 33% of the usable floor area of the main building as per Section 300-38 (B) (5) This property is located in an R1-80 Zoning District.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on December 8th, and referred to the Building Inspector.

FERNANDES, IVO #75/16

Property Address:
2605 Flagg Place
Section 26.20 Block 1, Lot 21

This is an application to allow a new AC condenser (exits) with a side yard setback of 11' where a minimum of 4' is required. A combined side yard setback of 37.58' where a minimum of 40' is required as per 300.21 and Appendix A of Town Zoning Code.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, and Meisterich, this item was scheduled for a Site Visit on December 3rd, a Public Hearing on December 8th, and referred to the Building Inspector.

ADJOURNED AGENDA

SACCENTE, MICHAEL #33/16 This is an application for a variance to allow an addition that will have a rear yard setback of 39.2' where 45' are required as stated in the decision of the Zoning Board of Appeals on May 24, 2001 and to allow a wall & fence in the side & rear yards with a maximum height of 10'9" where the maximum height permitted is 4'5" in the side & 6.5' in the rear, as per 300-13 of the Town Zoning Code. This property is in an R1-10 Zoning District.

Property Address:
3197 Rocky Place
Section 26.05, Block 1, Lot 48

Architect Jim Flandreau appeared before the Board on Applicant's behalf.

This application was adjourned so the Board can get a memo from the Planning Board.

Memo from the Planning Board dated October 27th, 2016 states:

The Planning Department received the requested additional details regarding the outflow pipe and therefore the Board has no further comments or objections to the issuance of the variance requested.

Memo from the Engineering Department dated September 9, 2016 states:

"Based on review of all the submitted materials and a phone conference held on 9/15/16, here are our updated comments:

1. Applicant provided a copy of the signed plan dated 8/30/16, which dates back to when the lot was first developed. The Engineering Department will need an updated property survey prior to issuance of any permits for this project to show the current structures on the property, i.e. the swimming pool previously constructed. We do agree the ZBA can render a decision prior to the Applicant retaining a land survey to update the property survey.
2. Applicant noted that a Building Permit for the swimming pool was filed but a certificate of occupancy was not obtained. Prior to issuance of a Building Permit, Applicant shall obtain a Stormwater Permit from this office for the swimming pool previously constructed. Applicant will also need a Stormwater Permit for this work that is proposed for this project (2 permits required).
3. Applicant stated at this time he is only filing architectural plans for consideration by the ZBA for the requested variance. If the variance is granted, Applicant will develop the detailed drawings that will be needed to obtain the Building Permit. Applicant further states he will be constructing a drywell in the front of the property to handle drainage from the new impervious surfaces for the garage addition. The new sunroom is proposed to be constructed where there is currently an impervious area (deck) so no additional stormwater measures will be proposed. The Engineering Department accepts this response; we will review the technical details once they are developed and submitted for approval.
4. We understand the Planning Department will confirm the information that is being presented in the zoning compliance chart and have no further comment.
5. The survey provided indicates there was stormwater infrastructure in the rear yard, two (2) drain grates are shown with no further information provided. We were advised by the Planning Department that they are addressing this issue with the Applicant and we can further review if needed.

Based on the above, the Engineering Department has no objection to a variance being granted for this project."

Mr. Flandreau said everything was resolved at the Planning Board meeting last month. The one question of concern the owner has with the Engineering memo is they are requesting an as built survey before the project is issued a permit, then they're going to require one to do the foundation survey because they're right at the setback line and they will have to do a third one, a final survey for all of them. The Applicant is hoping that the Board would waive the one that they have to do to get

the building permit since they'll be getting them in the future anyway. So instead of having to pay three times for a surveyor to come out, they'll only have to pay twice.

Chairman Fine asked if they have a survey that shows the pool.

Mr. Flandreau said no, it was not required when they got the building permit that they had to get an as built survey at that point. There was no requirement to include the pool and all the improvements, the walls, the deck, etc..

Mr. Bucci asked why do you think they want to see that. Mr. Flandreau said he's not sure, he asked Michael Quinn that. Mr. Bucci asked could it affect any possible permits that they might need. Mr. Flandreau said he didn't know what it would affect; he thinks he wants to see what's on site by a licensed surveyor and they could provide that when they do a foundation survey.

Mr. Meisterich asked why can't one survey be used for both. Mr. Flandreau responded that what Michael Quinn (Engineering Department) is asking for is for the applicant to do a survey before they do any of the construction, before they get a permit, then once they start they'll have to get a foundation survey for the addition, and then they would have to get a final survey because they're getting a variance.

Mr. Meisterich said when you get a building permit you take the existing pre-built survey, correct? Mr. Flandreau responded right, not all the improvements are shown. Where the pool is measured, it might be off, a licensed surveyor is going to come out and stake it out.

Mr. Meisterich asked whether the building permit and the engineering permit would be one survey, the same survey. Mr. Flandreau said what the Town Engineer, Mr. Quinn, is asking for is a survey with all the improvements before they get the building permit, and once they start the construction they get a foundation permit and then a final permit when the construction is done, so they'll have a surveyor out three times.

Mr. Gregory asked if there are any issues with any of the structures that are there now. Mr. Flandreau said the only issue they have is that they're working on moving the propane tank, which is not filed under this application; they'll put in a separate application. It's too close to the property line now, and they're going to move that off the property line. Other than that, everything should be fine.

Chairman Fine said his thinking on it is that even though the applicant may or may not understand all the reasons that the Town Engineer wants this third survey, he doesn't believe it's within the Zoning Board's authority to waive a requirement of the Town Engineer. Mr. Bucci said the applicant will have to take that up with Engineering. All Board members agreed.

Chairman Fine asked Mr. Flandreau to go through the application for the additions and the fence. Mr. Flandreau said they built a wall for barrier requirements for the pool, it's about 2 ft. plus the fence on top of it and the way the grade slopes down it ends up being 6+ feet with a fence on top of it, so the height is 10'9". It's over 6.5ft. It was built when they put the pool in.

Chairman Fine asked if the addition is the garage. Mr. Flandreau responded yes, the whole project started when they thought they needed the variance for the garage, it's only 29ft. from the property line, but they found out when this property was granted subdivision approval and this Board granted a variance for no frontage on a Town road (in 2001), there were conditions which changed some of the zoning requirements, the approval allows a 29ft. minimum setback to the front property line and where they're at is 29'9", so that give them 9" of play. Then they found out they needed a rear

minimum setback of 45ft. instead of 30ft.

Chairman Fine asked if the garage is attached to the house. Mr. Flandreau said the garage will be attached to the house, right now there's a 2-car garage they're adding a third bay. Mr. Meisterich asked if it requires a variance. Mr. Flandreau said it does not require a variance.

Chairman Fine asked what addition is going in the back. Mr. Flandreau said the sunroom, it's a deck now; they're putting a roof over it. Chairman Fine asked if they're basically enclosing the deck. Mr. Flandreau responded yes, but not increasing the size. They're going to reconstruct it a bit, put some more decorative stone columns up instead of just the wood post that they have. The footprint will be exactly the same. Chairman Fine asked if the old deck is coming down. Mr. Flandreau said they're taking the old deck down, it's been up for 15-16 years and they want to take the whole thing down and reconstruct it.

Chairman Fine said there's a lot going on on this property, a lot of additions have been put on this property, not necessarily building additions but things like the swimming pool, fences, those sort of things, making the property busy looking. But there's no one from the neighboring properties voicing any objections to any of it. He can't say it changes the character of that part of the neighborhood because that building is relatively new and the area it's in is relatively new. That street was developed all at the same time. Mr. Fahey said he had lived in that area and those buildings when they were built did change the character of that neighborhood, he thinks that adding more to that continues to cause a change in the neighborhood.

Mr. Meisterich said you have the pool, the fence is for safety. It would be hard to construct that and meet the safety codes and lower the fence.

Mr. Flandreau said he wanted to remind the Board that this is one of the only properties in the Town under this zone that has a 45ft. setback. There is a hardship to the owner in that they couldn't do anything in the back of the property without having to come for a variance.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item is Closed and Reserved.

ZOHAR, JANET #39/16 This is an application to renew a special use permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is located in an R1-10 zoning district.
Property Address:
1564 Kimble Ave.
Section 15.16, Block 2, Lot 63

Application postponed until December meeting.

DINEEN, KATHLEEN #48/16 This is an application to modify an existing special use permit for a day care facility per 300-53 of the Tow of Yorktown Zoning Code. This property is located in an R1-10 zoning district.
Property Address:
2090 Crompond Rd.
Section 37.14, Block 2, Lot 8

Application adjourned; applicant is now before the Planning Board for site plan approval.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was adjourned, waiting for Planning Board decision on site plan.

DINEEN, KATHLEEN #49/16 This is an application for a variance to allow an addition to a daycare facility to have a building coverage of 10057.5 sq. ft. where 7404 sq. ft. is the maximum allowed per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-10 zoning district.

Application adjourned; applicant is now before the Planning Board for site plan approval.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was adjourned, waiting for Planning Board decision on site plan.

PUBLIC HEARING

CONROY, WILLIAM & ALESSANDRA #53/16 This is an application for a variance to allow a pool to have a front yard setback of 10' where 30' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-10 Zoning District.

**Property Address:
225 Elm Road**

Section 27.6, Block 1, Lot 57

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated September 14, 2016 cited no objections.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to allow a pool to have a front yard setback of 10' where 30' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code, with the stipulation that it pertains only to the requested variance and not the remainder of the property line.

LUMI, EDIP #58/16 This is an application to renew a Special Use Permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is located in an R1-20 Zoning district.

Section 37.9, Block 1, Lot 66

**Property Address:
2226 Crompond Rd.**

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated October 24, 2016 states:

"The subject premises were inspected on October 14, 2016, and no changes have been made to the apartment since the previous approval, with the exception of the addition of a walk-in closet (additional s.f. added).

After a building permit and CO is issued for this work, as long as the square footage still meets zoning, the use will continue to be in substantial compliance with applicable building and zoning regulations. They also need an additional smoke detector.

The applicant should be advised that a new Certificate of Occupancy must be issued for continued use of the accessory dwelling."

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich,, the application for renewal of a special use permit was granted for a period of three (3) years for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code.

BISAGNA, ANDREW #59/16 This is an application to renew a Special Use Permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is located in an R1-20 Zoning district.

Section 37.9, Block 1, Lot 23

**Property Address:
586 Madison Court**

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated October 24, 2016 cited no objections.

The applicant should be advised that a new Certificate of Occupancy must be issued for continued use of the accessory dwelling.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for renewal of a special use permit was granted for a period of three (3) years for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code.

RALAT, DANIEL #60/16 This is an application for a variance to legalize a pool deck that
Section 26.11, Block 1, Lot 95 has a side yard setback of 9' where 15' are required per 300-21
Property Address: and Appendix A of the Town of Yorktown Zoning Code. This
2845 Strang Blvd. property is located in an R1-20 Zoning District.

Mailings and sign certification in order.

Applicant legalizing existing pool deck.

Memo from the Assistant Building Inspector dated September 28, 2016 cited no objections. Aside from the setback variance the applicant will need to obtain a building permit and 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 Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to legalize a pool deck that has a side yard setback of 9' where 15' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code, with the stipulation that it pertains only to the requested variance and not the remainder of the property line.

PEPDIJONOVIC, PETAR This is an application for a variance to allow an addition to have a
#61/16 front yard setback of 20.43' where 40' are required per 300-21
Section 37.14, Block 1, Lot 8 and Appendix A of the Town of Yorktown Zoning Code. This
Property Address: property is located in an R1-20 Zoning District.
2173 Allan Ave.

Mailing and sign certification in order.

Applicant stated that they're moving the steps to the front of the house instead at the side.

Memo from the Assistant Building Inspector dated October 24, 2016 cited no objections. The applicant will need a building permit and a Certificate of Occupancy for this work.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to allow an addition to have a front yard setback of 20.43' where 40' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code. With the stipulation that it pertains only to the requested variance and not the remainder of the property line.¹

SHANE, JOSEPH #62/16 This is an application for a variance to allow an addition to have a
Section 47.08, Block 1, Lot 3 side yard setback of 12.54' where 20' are required and a rear yard
Property Address: setback of 16.75' where 50' are required per 300-21 and

¹ Note this approval was corrected at the December 8, 2016 meeting to instead reflect an addition having a front yard setback of 14.83' where 40' is required.

1565 Old Baldwin Rd.

Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-40 Zoning District.

Mailings and sign certification in order.

Brian Duffy, Builder appeared before the Board on Applicant behalf. It's an existing deck, half of it they're going to wall up, screen it and tie into the existing roof line.

Chairman Fine asked which side of the house, is it the Taconic side. Mr. Duffy said yes.

Memo from the Assistant Building Inspector dated October 5, 2016 cited no objections.

Chairman Fine told Mr. Duffy that since this property borders with State Park property they have to do referral to County Planning.

There was no referral in the file.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was adjourned for referral from County Planning.

**MEYER, JEANNE #63/16
Section 26.15, Block 2, Lot 35
Property Address:
2721 Larkspur St.**

This is an application for a variance to allow an addition to have a front yard setback of 35' where 40' are required and a side yard setback of 12.5' where 15' are required and a combined side yard setback of 38' where 40' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-20 Zoning District.

Mailings and sign certification in order.

William Besharat appeared before the Board with applicant. They are proposing an addition to the house and reconstruction of the exiting garage, also a small front porch on the front of the house. The addition as proposed is to enlarge and make the kitchen more functional. Because of the configuration of the house, they have a spit level, that's the only space where they can actually have a functional kitchen with the least number of variances needed for it.

Memo from the Assistant Building Inspector dated October 24, 2016 cited no objections. The applicant will need a building permit and a Certificate of Occupancy for this work.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to allow an addition to have a front yard setback of 35' where 40' are required and a side yard setback of 12.5' where 15' are required and a combined side yard setback of 38' where 40' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code, with the stipulation that it pertains only to the requested variance and not the remainder of the property line and be built in substantial conformity with plans submitted.

**MORRIS, THOMAS & KELLY #64/16
Section 37.15, Block 2, Lot 47
Property Address:
149 Burgess Rd.**

This is an application for a variance to allow an addition to have a side yard setback of 17' 5¼" where 30' are required and a rear yard setback of 28' 8½" where 30' are required per 300-21 and appendix A of the Town of Yorktown Zoning Code.

Mailings and sign certification in order.

The applicant said they are removing the existing deck in total and adding more living space on the bedroom side of the house by expanding back and adding a bedroom; then reconstruct a new deck where the existing deck is, approximately half the size. The stairs are going on the Edgewater side of the house, going down and wrapping around.

Memo from the Assistant Building Inspector dated September 28, 2016 cited no objections. Aside from the setback variance the applicant will need to obtain a building permit and 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 Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to allow an addition to have a side yard setback of 17' 5¼" where 30' are required and a rear yard setback of 28' 8½" where 30' are required per 300-21 and appendix A of the Town of Yorktown Zoning Code, with the stipulation that it pertains only to the requested variances and not the remainder of the property line and be built in substantial conformity with plans submitted.

LINDEN, GAIL #65/16 This is an application for a variance to allow an existing addition to have a front yard setback of 21.5' where 30' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-10 Zoning District.
Section 25.7, Block 1, Lot 13
Property Address:
1791 Parmly Rd

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated September 28, 2016 cited no objections. Aside from the setback variance the applicant will need to obtain a building permit and 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 Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to allow an existing addition to have a front yard setback of 21.5' where 30' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code, with the stipulation that it pertains only to the requested variance and not the remainder of the property line.

YANCOPOULOS, KAREN #66/16 This is an application for special use permit for an accessory apartment per 300-38 of the Town of Yorktown Zoning Code. This property is located in an R1-80 Zoning District.
Section 47.19 Block 1, Lot 22
Property Address:
1280 Echo Hill Path

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was adjourned and so it can be heard with the application on the added agenda.

ANTONUCCI, DEAN #67/16 This is an application to allow an addition to have a side yard setback of 3.1' where 12' are required and a combined side yard setback of 21.3' where 24' are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code. This property is located in an R1-10 Zoning District.
Section 25.08, Block 2, Lot 52
Property Address:
1572 Wenonah Trail

Mailings and sign certification in order.

Sid Schломann, Architect appeared before the Board with the applicant. The application is for a 2nd story addition on top of an existing 1 story house; they are squaring off the house and building on top of it; not increasing non-conformity.

Memo from the Assistant Building Inspector dated October 3, 2016 states:

"I have inspected the property on September 22, 2016. There is a tent structure over 200 square

feet in size located in the rear yard that requires a permit. I have no objections in granting relief.”

The applicant said the tent will be removed before the permit is issued.

The Board discussed the application and applied the statutory factors. Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, the application for a variance was granted to allow an addition to have a side yard setback of 3.1’ where 12’ are required and a combined side yard setback of 21.3’ where 24’ are required per 300-21 and Appendix A of the Town of Yorktown Zoning Code, with the stipulation that it pertains only to the requested variance and not the remainder of the property line and must be built in substantial conformity with plans submitted.

CLOSED & RESERVED

SACCENTE, MICHAEL #33/16 This is an application for a variance to allow an addition that will have a rear yard setback of 39.2’ where 45’ are required as stated in the decision of the Zoning Board of Appeals on May 24, 2001 and to allow a wall & fence in the side & rear yards with a maximum height of 10’9” where the maximum height permitted is 4’5” in the side & 6.5’ in the rear, as per 300-13 of the Town Zoning Code. This property is in an R1-10 Zoning District.

**Property Address:
3197 Rocky Place
Section 26.05, Block 1, Lot 48**

Chairman Fine said the concern is there’s a lot going on on this piece of property. Mr. Gregory said to the extent of most of what’s going on is relatively legal, other than the fact they have to supply information relative to the stormwater it’s really not, in terms of what we’re doing, there’s really not much left. They’re putting an addition on the front that is going to decrease the front yard a little bit, but that’s not before the Zoning Board for a variance, it’s only the fence and the rear yard. There’s a requirement that was instituted with the original house having a minimum 45ft. rear setback. Ms. Georgiou confirmed that it was a condition of the 2001 variance approval. Mr. Gregory said generally in that area, 45ft. is substantially more than what the zoning in the area calls for; he doesn’t have any objections to the variance requested.

Mr. Fahey said he finds it out of character with the neighborhood. As for as adding to and enclosing the deck, he doesn’t see the point to that, just adding to that monstrosity of a building as it is. As far as everything else, he doesn’t have a problem with the garage in the front or with the fence.

Mr. Bucci asked Mr. Fahey what does he think is out of character with the neighborhood. Mr. Fahey responded the size of the building, and adding the sunroom adds to that size. You’re going to add to that projection from the street below. He doesn’t think you need to add anything more to that projection. Mr. Fahey said right now it’s a deck, you’re going to add a roof over that; it’s already an imposing structure.

Mr. Bucci asked if the issue is the deck that’s out of character, the house is already there and that’s not part of the application. Mr. Fahey said yes, the deck is already there but putting a roof over it, that makes the back of that building bigger. Chairman Fine said only going up about half way; it’s not going all the way to the top.

Mr. Bucci said there isn’t any question that it would make it look slightly bigger. Mr. Fahey said he does not want to add any more to it. Mr. Meisterich said it is a unique situation in that the whole approval of the subdivision triggered the ZBA to put this condition of the rear yard. Ms. Georgiou

said it was a condition adopted by the ZBA. Mr. Gregory said that condition emanated from a review of the subdivision, wasn't something the Zoning Board created.

Mr. Bucci said that personally one could argue there's a lot going on there, it's a fairly developed site. It's not an ideal situation, but if you're looking at the specific thing that's before the Board at this point and time, and what they're doing, he doesn't think it's going to radically alter what exists there at the moment.

Mr. Fahey said it's out of character with the neighborhood, there's not another structure, there's only those two buildings that size, height, width, everything else. The neighborhood below is all one story structures. Chairman Fine said the houses on Rocky Place are in character with each other, the houses that the back of those houses face are not the same type house.

Mr. Bucci said the other question is that you're saying as it exists it's out of character, but by legalizing the fence and adding the enclosed porch, is this application going to make it out of character with the neighborhood. Chairman Fine said he thinks what the argument is it's already out of character, you're increasing the amount it's out of character. Mr. Bucci then said let's look at the other four factors:

Mr. Fahey said this is self-created. Mr. Bucci then asked, whether it's substantial. Mr. Fahey said in totality, he guesses yes, for the size. Some of the other Board members disagreed and said by itself, it's not substantial. Mr. Bucci asked, is there an adverse effect or impact on the physical or environmental conditions in the neighborhood for these particular changes now proposed. Ms. Georgiou told the Board that as far as the record reflects that's before the board, this issue of stormwater was vetted by the Planning Board and the Engineering Department and apparently, they have not indicated an adverse effect on the environment. There were questions about drainage and the record reflects that issue was also vetted and addressed.

Mr. Bucci then discussed whether there was any reasonable alternative to obtain the benefit sought; they don't have to enclose the porch, but they would lose the benefit of the room.

Ms. Georgiou indicated that the Board has to deal with the record that's before them. Mr. Bucci said he does not think it is substantial, he doesn't think it changes the character of the neighborhood because it doesn't change what's there. Also he doesn't think it causes adverse environmental effects. Like anything, everything is self-created and you could theoretically argue their least restrictive alternative would be not to enclose the deck.

Mr. Meisterich said he doesn't know if it's self-created because the reason they're having this restriction is because of the constraints that were applied in the variance approval in 2001; that's in the original decision. Mr. Bucci said the deck is already there, they're not changing the variance of the deck, they're just enclosing it, and because they're touching it, it still creates that issue. Mr. Meisterich said normally the rear yard deck enclosed is permitted through setbacks, the need for a variance was created by the 2001 decision, he doesn't know if that was created by the applicant. Mr. Bucci responded yes, it's there but if the applicant is doing something to their property, they're asking to vary something. They don't necessarily have to enclose the porch, that's just a wish.

Chairman Fine said based upon all that was discussed, motion to grant the application for a variance to allow an addition that will have a rear yard setback of 39.2' where 45' are required as stated in the decision of the Zoning Board of Appeals on May 24, 2001 and to allow a wall & fence in the side & rear yards with a maximum height of 10'9" where the maximum height permitted is 4'5" in the side & 6.5' in the rear, as per 300-13 of the Town Zoning Code, with the stipulation that the addition be built

in substantial conformation to the plans that's submitted and the variance pertains only to the requested variances and not the remainder of the property line, and the project must be in accordance with the Engineering Department memo.

Upon motion by Fine, seconded by Gregory and voted in favor by Bucci, Fine, Gregory, and Meisterich; No by Fahey. (Motion carries and variance granted, 4 in favor-1 against.)

Recording Secretary, Glenda Daly

Meeting adjourned at 8:06pm

Happy Zoning!