

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS  
JULY 27<sup>TH</sup>, 2017**

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, July 27<sup>th</sup>, 2017. 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, Michael Blanchard and Assistant Building Inspector Joe Angiello. 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 September 14<sup>th</sup>, 2017, site visits are scheduled for September 9<sup>th</sup>, 2017. Mailings are to be sent from August 21<sup>st</sup> and August 30<sup>th</sup>, 2017.

**NEW BUSINESS**

**DIULIO, WANDA #37/17** This is an application for a special use permit for a renewal of a  
**Property Address:** accessory dwelling. This property is located in a R1-20 zone.  
**1587 Cross Rd.**

**Section 15.8, Block 1, Lot 52**

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

**COOPER, SHARA #38/17** This is an application for the keeping of fowl special use permit as  
**Property Address:** per section 300-81.3 of the Town Zoning Code. This property is in  
**1441 Old Logging Rd.** a R1-80 zone.

**Section 47.17, Block 1, Lot 13**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 9<sup>th</sup>, 2017, a Public Hearing on September 14<sup>th</sup>, 2017, and referred to the Building Inspector.

**SMITH, INDIA #39/17** This is an application for a proposed addition, with a side yard  
**Property Address:** setback of 4.7' where a minimum of 10' is required and a  
**1873 Hanover St.** combined side yard setback of 18.4' where a minimum of 20' is  
**Section 37.19, Block 1, Lot 17** required as per section 300-21 and Appendix A of the Town  
Zoning code. This property is located in a R2 zone.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 9<sup>th</sup>, 2017, a Public Hearing on September 14<sup>th</sup>, 2017, and referred to the Building Inspector.

**GIORDANO, MARK #40/17** This is an application to allow 7 a.c. units with a side yard setback

**Property Address:** of 20' where a minimum of 30' is required and a combined side yard setback of 21.1' where a minimum of 80' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-60 zone.  
**1340 Baptist Church Rd.**  
**Section 47.14, Block 1, Lot 10**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 9<sup>th</sup>, 2017, a Public Hearing on September 14<sup>th</sup>, 2017, and referred to the Building Inspector.

**RODRIGUEZ, FRANK #41/17** This is an application to allow an existing fence in the side yard with a height of 5.5' where a maximum of 4.5' is permitted as per section 300-13(f). The applicant also proposes an a.c. unit with a combined side yard setback of 35' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town Zoning code. This property is located in a R1-20 zone.  
**Property Address:**  
**423 Bonnie Ct.**  
**Section 17.13, Block 2, Lot 22**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 9<sup>th</sup>, 2017, a Public Hearing on September 14<sup>th</sup>, 2017, and referred to the Building Inspector.

**BONFIGLIO, MICHAEL #42/17** This is an application for a proposed pillars and driveway gate with a height of 7'6" where a maximum height of 4'6" is permitted as per section 300-13(f) of the Town Zoning Code. This property is located in a R1-80 zone.  
**Property Address:**  
**1233 Baldwin Rd.**  
**Section 47.16, Block 1, Lot 2**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Bucci, Fahey, Fine, Gregory, and Meisterich, this item was scheduled for a Site Visit on September 9<sup>th</sup>, 2017, a Public Hearing on September 14<sup>th</sup>, 2017, and referred to the Building Inspector.

### **CONTINUED PUBLIC HEARINGS**

**DeSANTIS, PHIL & PAULINE #11/17** This is an application for an existing carport with a side yard setback of 10' where a minimum of 15' is required and a combined side yard setback of 30.23' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.  
**Property Address: 3215**  
**Gomer St.**  
**Section 17.17, Block 3, Lot 34**

This item was adjourned to allow the Applicant time to meet with the Building Department in regards to the combined setback for the generator as well as getting a mechanical permit.

The application has been amended as: An application for an existing carport with a side yard setback of 9'8" where a minimum of 15' is required and a combined side yard setback of 26' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.

The Applicant stated that the plans were submitted.

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 for an existing carport with a side yard setback of 9'8" where a minimum of 15' is required and a combined side yard setback of 26' where a minimum of 40' is required as per section 300-21 and Appendix A of the Town 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 to the plans submitted.

**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 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 on site plan approval.

**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.  
**Property Address:**  
**2090 Crompond Rd.**  
**Section 37.14, Block 2, Lot 8**

Application 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 on site plan approval.

### **NEW PUBLIC HEARING**

**BASILE, MIKE & PETRILLO, DEBBIE #14/17** This is an application for a proposed accessory structure with a side yard setback of 4.2' where a minimum of 10' is required as per Section 300-21 and Appendix A of the Town Zoning code. This property is located in an R1-10 zoning district.  
**Property Address:**  
**232 Sparkle Rd.**  
**Section 27.10, Block 1, Lot 40**

Applicant not present. Application withdrawn from calendar.

**ROMER, FREDERICK #31/17** This is an application to allow a single-family dwelling with a frontage of 100' where a minimum of 150' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-40 zone.  
**Property Address:**  
**1775 Darby St.**  
**Section 48.05, Block 1, Lot 38**

Mailings and sign certification in order.

John Barelli and Louis Panny, Contract Vendee, appeared before the Board.

Applicant seeking to legalize a building lot.

Michael Beeks appeared before the Board. Owns the lot next to the property. He was interested in purchasing the lot and hired an Environmental Consultant Engineer and there were issues. The front portion of the lot is part of the wetlands vernal pool eco system. It's the vernal pool that holds back a significant amount of water and regulates the flow of that water down through the properties all the way down to the rest of Darby Street. When the vernal pool is active, the surface area can be as large as 15,000 sq.ft.

Mr. Beeks showed the Board maps of the landscape throughout the years, showing the changes.

He said he's concern the structures like buildings and driveways in the area would affect the function of these existing wetlands and vernal pool by reducing flow absorption rates and trans evaporation. This is a very sensitive area. The biggest concern is this construction could reduce the ground water discharge rate of the vernal pool, affecting the discharge rate and leading to possible excess surface retention and possible breaching.

Chairman Fine asked Mr. Barelli and Panny where the subject house is going to be.

Mr. Panny showed the Board on the map where the house would be located.

Mr. Bucci asked where the septic will be.

Mr. Panny said in the front, it has already been approved. The Board of Health made them change it to the front. There is a new site plan that they received today.

Mr. Barelli said this was all approved.

Mr. Bucci asked if anyone in the Town mentioned anything about wetlands.

Mr. Panny said there are no wetlands, the DEC checked.

Mr. Meisterich asked if they have the site plans.

Mr. Panny showed the Board the plans on his cell phone.

After reviewing the plans on the phone, it was said that the house is being moved back further than what's on the original plan.

Memo from the Assistant Building Inspector, dated July 25, 2017 states: The applicant is requesting an area variance to construct a single-family house on a lot with a front lot line of 100 feet where 100 feet is required and is 100 feet at the main building line where 150 feet is required in an R1-40 zone. Be advised that I have inspected the premises on June 20, 2017.

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 a single family dwelling with a front line lot of 100 feet where 150 feet is required and lot width at main building line of 100 feet where 150 feet is required, in an R1-40 zone, with the stipulation that it pertains only to the requested variance and not the remainder of the property line, and is subject to the location of the septic per the Board of Health, and must be built in substantial conformity to updated plans submitted.

**CHANG, VICTOR #32/17** This is an application to allow 2 lp tanks with a side yard setback of 12' where a minimum of 15' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is in a R1-20 zone.

**Property Address:**  
**1264 Williams Dr.**  
**Section 16.05, Block 1, Lot 61**

Mailings and sign certification in order.  
Memo from the Assistant Building Inspector dated July 24, 2017 cited no objections. The applicant will need a mechanical permit 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 2 lp tanks with a side yard setback of 12' where a minimum of 15' is required as per Section 300-21 and Appendix A of the Town of Yorktown Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line.

**LOCHER, WILLIAM #33/17** This is an application for a proposed structure with a front yard setback of 25.75' where a minimum of 40' is required as per section 300-12 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.

**Property Address:**  
**880 Ferris Place**  
**Section 26.16, Block 1, Lot 14**

Mailings and sign certification in order.

The Applicant said he wanted to make a slight change. Instead of 28ft. he wants to change it to 24ft. Mr. Locher said he wants to go to 29.75ft, after submitting plans to the Tax Assessor office and getting the proposed taxes back, want to make the addition smaller.

Chairman Fine suggested 29ft. instead of 29.75ft. to be on the safe side. The Applicant said sounds good.

Memo from the Assistant Building Inspector, dated July 13, 2017 cited no objections.

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 for a proposed structure with a front yard setback of 29' where a minimum of 40' is required as per Section 300-12 and Appendix A of the Town 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 as to the plans submitted at tonight's meeting (7/27/17), not the ones in the file.

**TOLLO, GEORGE #34/17** This is an application to allow an accessory structure with a side yard setback of 9'6" where a minimum of 15' is required as per section 300-21 and appendix A of the town Zoning Code. This property is located in a R1-20 zone.  
**Property Address:**  
**504 Granite Springs Rd.**  
**Section 27.13, Block 2, Lot 44**

Mailings and sign certification in order.

John Santini appeared for the Applicant. He said the Applicant want to extend his existing deck further towards the back part of his property. There was a deck there and during the process, they found out it was too far out.

Memo from the Assistant Building Inspector dated, July 25, 2017 states: The applicant is requesting an area variance to legalize an existing accessory structure (deck).

I have inspected the premises on June 25, 2017.

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 accessory structure, that being the existing deck and the proposed addition to that deck, with the stipulation that it pertains only to the requested variance and not the remainder of the property line.

**HAGER, DONNA #35/17** This is an application for the keeping of fowl special use permit as per section 300-81.3 of the Town Zoning Code. This property is located in a R1-20 zone.  
**Property Address:**  
**763 Blackberry Ln.**  
**Section 26.08, Block 1, Lot 71**

Mailings and sign certification in order.

Chairman Fine when through the code requirements with the applicant.

- (a) Require all feed to be kept in rodent proof containers;  
The Applicant replied yes, she have 5 gallons food containers.
- (b) No mature rooster;  
The Applicant replied no roosters.
- (c) Have an outside run when attached to the coop;
- (d) Require that the coop and any attached run be screened from view at ground level from adjacent lots by using fencing, landscaping;  
Mr. Meisterich said it's definitely screened.  
Chairman Fine said per the memo, the screening of the coop may need to be revisited in the fall when all the leaves are off the trees.

(e) Has to have waste management and removal plan;

The Applicant said she submitted plans and give the Board copies again.

Chairman Fine asked the Applicant what the lot size is. The Applicant said over 40,000, and that she has 1.2 acres.

Chairman Fine said it has to be in the side or rear yard, at least 30ft. from each property line. The Applicant said it is 70ft. from the property line behind and 80ft. from the house.

Memo from the Assistant Building Inspector dated, July 24, 2017 states: I have inspected the property on July 13, 2017 and have no objections in granting of this permit. The screening of the coop may need to be revisited in the fall, when all the leaves are off the trees. I believe it is sufficient but if needed, the Building Department can make a visit to verify compliance.

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 Special Use Permit for the keeping of fowl was granted for a period of one (1) year, with the provision that the Applicant must comply with all of requirements of Section 300-81.3 of the Town Code.

**GATTO, FAYE/WHITAKER  
TRUST**

**#36/17**

**Property Address:  
1410 Hayes Dr.**

**Section 47.18, Block 1, Lot 41**

This is an application to allow an existing detached garage with a front yard setback of 8.3' where a minimum of 75' is required as per section 300-21 and Appendix A of the Town Zoning Code.

This property is located in a R1-80 zone.

Mailings and sign certification in order.

Albert Capellini, Attorney, representing the Applicant.

Mr. Capellini said the garage has been there since the early 40's when the house was built, it's been part of the character of the neighborhood. They're asking to legalize it.

Memo from the Assistant Building Inspector dated, July 25, 2017 states: Please be advised that the homeowner has moved the shed in the rear of the property which is now in compliance with the zoning and does not need a variance.

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 detached garage with a front yard setback of 8.3' where a minimum of 75' is required as per Section 300-21 and Appendix A of the Town Zoning Code, with the stipulation that it pertains only to the requested variance and not the remainder of the property line. Also to indicate that the survey indicated that the shed was too close to the property line and according to the Building Department memo, the shed in the rear has been moved into compliance.

Recording Secretary, Glenda Daly

Meeting adjourned at 7:45pm

Happy Zoning!