

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS  
MAY 28<sup>TH</sup>, 2020**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, May 28<sup>th</sup>, 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  
Anthony Tripodi

Also present is Building Inspector, John Landi, Special Counsel, Adam Rodriguez and Robyn Steinberg, Town Planner. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held June 25<sup>th</sup>, 2020. Mailings are to be sent from June 1<sup>st</sup> to June 10<sup>th</sup>, 2020.

**NEW BUSINESS**

**HANNON** #11/20 This is an application for a special use permit for an accessory apartment.  
**Property Address:**  
**1271 Baldwin Rd.**  
**Section 12.1, Block 4, Lot 2**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item will be handled administratively, a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector.

**HOFFMAN** #12/20 This is an application for a renewal of a special use permit for an accessory apartment.  
**Property Address:**  
**3808 Crompond Rd.**  
**Section 35.08, Block 1, Lot 32**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item will be handled administratively, a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector.

**ABRAMS** #13/20 This is an application for a renewal of a special use permit for an accessory apartment.  
**Property Address:**  
**3461-A Sagamore Ave.**  
**Section 15.16, Block 2, Lot 12**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item will be handled administratively, a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector.

**LEFFER** #14/20 This is an application to allow a new dwelling on the lot with a side yard setback (equal to front) of 27' where a minimum of 40' is required, a front yard setback of 35' where a minimum of 40' is required and a lot width of building at 97.1' where a minimum of

100' is required as per 300-21, 300-13G and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector and Planning. Site Visits will be done by the Board Members separately.

**CLIFFORD #15/20** This is an application to allow an existing front handicap ramp and deck with a front yard setback of 27' where a minimum of 40' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.  
**Property Address:**  
**1590 Amazon Rd.**  
**Section 25.12, Block 2, Lot 58**  
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector. Site Visits will be done by the Board Members separately.

**ATLANTIC APPLIANCE #16/20** This is an application to allow a roof and portico with a front yard setback of 67' where a minimum of 75' is required as per 300-21 and Appendix B of the Town Zoning Code. This property is located in a C-2 zone.  
**Property Address:**  
**2010 Maple Hill St.**  
**Section 37.15, Block 1, Lot 31 & 35**  
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector and Planning. Site Visits will be done by the Board Members separately.

**3D DEVELOPMENT #17/20** This is an application for a special use permit for the storage of new vehicles.  
**Property Address:**  
**2710 Lexington Ave.**  
**Section 25.20 Block 1, Lot 14 & 15**  
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on June 25<sup>th</sup>, 2020, and referred to the Building Inspector, Planning, Conservation and County Planning. 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.  
Chairman Fine request a letter be sent to the applicant.

**BUCELLO #36/19** This is an application for a renewal of a special use permit for an accessory apartment.  
**Property Address:**  
**608 Granite Springs Rd.**  
**Section 27.13, Block 2, Lot 11**

Not open. Requested adjournment.  
Chairman Fine request a letter be sent to the applicant.

**ADORNO #45/19** This is an application to allow an accessory structure with a side yard setback of 5.5' where a minimum of 15' is required, a height of 17'10" where a maximum of 15' is required and a combined footprint of all accessory structures of 86% of the main dwelling where a maximum of 80% is allowed as per 300-21, 300-14 and appendix A of the Town Zoning Code. This property is located in a R1-20 zone

**Property Address:**  
**146 Cordial Rd.**  
**Section 17.14, Block 3, Lot 46**

Chairman Fine said there's actually two applications on this. It's at 146 Cordial Road application to allow accessory structure with the side yard setback of five from 5 feet a minimum of 15 feet required height of 17 feet 10 inches or maximum 15 feet is required and a combined footprint with all accessory structures of 86% of the main dwelling where a maximum 80% allowed.

John Scavelli representing the applicant.

Chairman Fine said when we last left off on this, we the application was for the accessory structure, then the shed issue arose, so we had to handle that as well. We asked that everything be joined in one application.

We had asked the Building Inspector for input regarding the wood boiler law and if the applicant was in compliance. Mr. Landi said the boiler was permissible in the garage.

It is not an outdoor wood boiler, as our law says. It's a wood oil fired boiler which is allowed.

Chairman Fine said so that doesn't have anything to do with the code as far as outdoor boilers?

Mr. Landi responded correct.

Mr. Fahey asked does it meet the required setbacks and measurements for in for a boiler of that nature in wood structure?

Mr. Landi said yes it would. He was supposed to get me all the documentation on it. Since all this happened, I don't think he did that.

Chairman Fine asked Mr. Scavelli if the new structure that's being proposed is going to take the place of the current garage.

Mr. Scavelli said Correct.

Chairman Fine asked what's going to happen to the boiler?

Mr. Scavelli said for the boiler, you'd have to file a proper permit paperwork.

Chairman Fine asked if is it going back inside the garage?

Mr. Scavelli said it would go back inside the new garage.

Chairman Fine said as we discussed last time, we had asked what the necessity was for the height of the proposed garage and can it be made any lower.

Mr. Scavelli said I do have some pictures and things to share. If you're looking at it from the street the owner is looking to have a slightly higher roof pitch to basically match with the height of his home. The neighbor's home to the left is actually even higher than his home. So if you really look at the aesthetics from the streets, you'll see that at the current garage that's there, it's a flat roof and it's dilapidated. It's not really in character with basically the homes that are surrounding it. The proposed application is actually just to shift over the garage further from the current left side yard, to make the nonconformity. Less than what it currently is, and as part of the proposed variance is for additional height for the roof pitch of the garage as well.

Chairman Fine asked what is going into garage height has to be that high?

Mr. Scavelli said it would just be storage, garage storage for cars. The boiler equipment would be in the back side of the garage.

Chairman Fine said it's all about two feet. 10 inches Correct.

Mr. Scavelli responded correct.

Mr. Fahey asked would there be any problem with holding with the 15, holding to the to the code, to

the 15 feet?

Mr. Scavelli yes, it's more of the aesthetic pitch. If they're looking to make this investment to improve the garage and get rid of the old garage.

Chairman Fine asked how would the height of the garage compared to the height of the house that it's next to?

Mr. Scavelli said the peak of the roof would be about at where the soffit height of the of the second story of the existing house is.

Chairman Fine asked if the peak of the garage roof will be lower than the peak of the house roof?

Mr. Scavelli said yes, it would be much lower than the peak of the house roof.

Chairman Fine asked if anyone on the Board had any other comments.

Mr. Meisterich said he think this was the application that there're multiple accessory structures on the property. He thinks the history was that some were built, like the shed without Zoning Board approval, and then became legalized through sort of a hardship process. In the prior Zoning Board decision that legalized maybe the pool house or something, said no more building of any sort, with no more accessory structures of any sort without zoning Board approval. So it's not just a matter that the shed is in the setback, the shed was built against that prior decision. The overall from the history is that we have a lot of accessory structures on this property. And he does have a big concern with the height, because you're adding potential livable footprint to the house in the sense of the second story of the garage. Wondering if there's some form of a condition we could impose, if we were to grant it that the floor can't be finished or something, you know,

Chairman Fine said you can say its storage only, garage is storage only.

Mr. Meisterich said the temptation that given the history of this property and the applicant, the quote, unquote, hardship route of getting variances approved, like we're doing now. We're considering after the shed or anything else, there's a huge possibility that something might be done against the decision and then attempt to legalize it in the future.

Chairman Fine said don't know what you could do to avoid that. You can't really say, you can't finish the inside of the storage area because that's an unfortunate condition. You can't have the Building Inspector running out all the time to see if the, if the upstairs is ever finished.

Mr. Meisterich said right, so I guess.

Mr. Gregory said from his perspective he really would like to get some more information on that wood burning stove inside.

Chairman Fine asked what information would...

Mr. Meisterich said he would too in the sense of does a wood burning stove in a garage, maintain that this structure is a garage. We've had situations in the past where adding heat to a building turned it into a music studio and not an accessory structure.

Also wondering maybe a John Landi question, if you have a boiler in an accessory building and you're calling that building a garage, is the building still accessory and is it still a garage?

Mr. Landi said yes, absolutely, you can heat a garage at anytime you want.

Mr. Fahey asked what makes it an accessory structure? Putting a bathroom in there? Or

Chairman Fine said it's not a main use.

Mr. Gregory said he's more concerned about the fire safety aspect of it. He'd like to get some more information on that.

Chairman Fine asked what information specifically are you looking for?

Mr. Gregory said typically, what type of boiler are we sticking in there? What kind of building codes are applicable to it? Does it have anything to do with the variances that are being asked in terms of the height or location of the structure, those kind of things. Would feel comfortable granting this thing or not granting it, if he knew that a little bit more that technical information.

Chairman Fine said can the applicant supply more technical information regarding the boiler? Supply to the board and the building department for the next meeting?

Mr. Scavelli said yes, they could follow up on that. He believes the owner was kind of working

through that process.

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

### **NEW PUBLIC HEARING**

**GLYNN** #03/20 This is an application for a proposed 2nd floor addition with a rear yard setback of 21.08' where a minimum of 30' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-10 zone.  
**Property Address:**  
**2032 Breton Ct.**  
**Section 37.18-2-44**

Mailings and sign certification in order.

Ms. Glynn said they're putting a second floor addition and porch.

Memo from the Assistant Building Inspector dated, February 21, 2020 states: I have inspected the property on February 19, 2020 and no objections in granting relief. The applicant will need a building 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 Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted for a 2nd floor addition with a rear yard setback of 21.08' where a minimum of 30' 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 the addition be built in substantial conformity to the plans submitted.

**FILOGOMO** #5/20 This is an application for an accessory apartment. The previous one expired back in 1997.  
**Property Address:**  
**2394 Loring Pl.**  
**Section 37.05, Block 1, Lot 15**

Not open. Home was not inspected by the Building Department and mailing was not sent to one neighbor.

**ZUCKERMAN** #6/20 This is an application to allow an existing addition with a side yard setback of 20' where a minimum of 30' is required and a combined side yard setback of 76' 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 R1-80 zone.  
**Property Address:**  
**1287 Baldwin Rd.**  
**Section 47.16, Block 3, Lot 7**

Mailings and sign certification in order.

Nora Hildinger, agent representing the applicant.

Ms. Hildinger said the existing addition that they're seeking the variance for is a sunroom which has existed in its present state since 1979. The existing addition has a side yard setback of 20 feet where 30 is required and a combined side yard setback of 76 feet where 80 is required.

Memo from the Building Department dated, March 6, 2020 states: I have inspected the property on March 4, 2020 and have no objections in granting relief. The applicant will need a building 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 Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow an existing addition with a side yard setback of 20' where a minimum of 30' is required and a combined side yard setback of 76' where a minimum of 80' 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.

**WRIGHT #7/20** This is an application to replace an existing porch with the same setback of 27' where a minimum of 40' is required as per 300-13(G) and Appendix A of the Town Zoning code. This property is located in a R1-20 zone.

**Property Address:**  
**3330 Peter Ln.**  
**Section 16.16 Block 2, Lot 40**

Mailings and sign certification in order.

Charles Wright present.

Chairman Fine asked if they're taking down the old porch and putting up a new one.

Mr. Wright said yes. Want to take down the concrete because it's chipped and some of the stairs are uneven, and rebuild a wooden one.

Memo from the Building Department dated March 12, 2020 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 Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted application to replace an existing porch with the same setback of 27' where a minimum of 40' is required as per 300-13(G) 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 as already built.

**DiBARTOLO #8/20** This is an application for a proposed accessory building with a side yard setback of 5' where a minimum of 30' is required, a combined side yard setback of 59.6' where a minimum of 80' is required and a height of 20'7 1/8" where a maximum of 15' is permitted as per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-60 zone.

**Property Address:**  
**1056 Underhill Ave.**  
**Section 47.16, Block 1, Lot 24**

Mailings and sign certification in order.

Eric DiBartolo present. He said the structure is a garage to put his cars in, it's a pole barn. Have nothing right now, have two of his cars underneath tarps. He rebuilds old cars so he's looking for a place to put his vehicles. There will be strictly storage upstairs. Other than that, it's matching the house as far as what siding what roofing everything is going to stay the same.

Memorandum not in the file, John Landi said there was no objections.

Chairman Fine asked where on the property is the structure going.

Mr. DiBartolo said it's going to go directly across from where my house is, to the side.

Chairman Fine said your house is on the very end of Underhill well Underhill Avenue at the Taconic, correct?

Mr. DiBartolo responded yes; his neighbor is the Taconic.

Chairman Fine said as you're facing the house, and the Taconic is on the left, where's the barn?

Mr. DiBartolo said on the left.

Chairman Fine asked how far from the parkway is it?

Mr. DiBartolo said 15-20 feet from the ramp. His property runs right along the edge of the Taconic. Matter of fact, when they redid the Taconic years and years ago, they moved the ramp and everything over so some of the property was taken away was put under condemnation many, many years ago.

Mr. Fahey asked because the Taconic Parkways is a scenic parkway. As far as views from the from what can be seen from the road, was there any restrictions from the Taconic Parkway authority or any of that as far as structure? Don't know if there's visual impact?

Chairman Fine said we do not have the mailings. We do not know if the DOT was contacted.

Mr. DiBartolo said DOT was contacted. Sent the letters but have not received anything back. There are quite high trees that he has there.

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, Meisterich, and Tripodi, the application for a variance was granted for a proposed accessory building

with a side yard setback of 5' where a minimum of 30' is required, a combined side yard setback of 59.6' where a minimum of 80' is required and a height of 20'7 1/8" where a maximum of 15' is permitted 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 the structure be built in substantial conformity to the plans submitted.

**Yorktown Jaz LLC** #9/20 This is an application to relocate an existing sign with a new  
**Property Address:** setback of 0' where a a minimum of 5' is required as per Appendix  
**3220 Crompond Rd.** D(4) of the Town Zoning Code. This property is located in a C-3  
**Section 26.18, Block 1, Lot 18** zone.

Mailings and sign certification in order.

Michael Grace, attorney, representing the applicant. He said this is for the monument sign that's on Pad B, which is a middle pad that is now being developed with the Starbucks, and in order to accommodate some of the infrastructure on that Pad B which is the middle pad, the freestanding sign has to move closer to the property line. You may be recall that the DOT did it taking in front of entire property.

Memo from the Planning Board dated, March 12, 2020 states: The Planning Board, at its meeting on March 9, 202, discussed the subject Zoning Board referral.

The proposed relocation of the monument sign is to accommodate the retaining wall required for the parking on the subject lot. The sign will be over 10 feet away from the curb line on Route 202 and, therefore, will not cause any significant impacts. This sign location has been approved by the Planning Board resolution #19-26, dated October 7, 2019.

The Planning Board has no objections to this application.

Memo from ABACA dated March 12, 2020 cited no objections.

Memo from the Building Department dated, March 6, 2020 states: I have inspected the property on March 2, 2020 and have no objections in granting relief. The applicant will need a sign 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 Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a variance was granted to relocate an existing sign with a new setback of 0' where a minimum of 5' is required as per Appendix D(4) of the Town Zoning Code

**ADORNO** #10/19 This is an application to allow an existing shed with a rear yard  
**Property Address:** setback of 6.5' where a minimum of 10' is required as per section  
**146 Cordial Rd.** 300-21 and Appendix A of the Town Zoning Code. This property  
**Section 17.14, Block 3, Lot 46** is located in a R1-20 zone.

Mailings and sign certification in order.

John Scavelli representing the applicant.

Memo from the Building Department dated, March 12, 2020 cited no objections.

Mr. Scavelli said there was a shed that was determined in the backside of the house that there was not a permit that was closed out. So that is actually a separate structure than the garage structure we're talking about. That shed structure only has a 6½ feet setback from the rear yard, whereas a 10 feet setback is required. So that's a part of the variance application for legalization of that existing shed at the rear side of the property.

Mr. Fahey asked what is that shed being used for now? Is it just storage?

Mr. Scavelli said it's just storage.

Mr. Fahey said does it have to be there? Where 86% of the property's being utilized right now. If he were to remove that shed, wouldn't he be in compliance with the as far as 80%?

Chairman Fine said that's a different question. Is the shed since the garage application came before the shed application, was the shed footprint built into that 86%?

Mr. Scavelli said correct. So to answer your question, yes, the coverage calculation was including

that shed because that was included in the survey that was submitted. If you take that shed out, what would the coverage be? I'd have to follow up on that. Do have some rough numbers here that I could probably. The question is you're allowed 80%. So we get it down to the 80, you wouldn't even need a variance on that.

Chairman Fine asked the garage that your looking to put in, is that bigger or the same size as the current garage?

Mr. Scavelli said it's slightly larger. And then it's also a slightly different location that actually pushes it.

Chairman Fine said it's also higher.

Mr. Scavelli said correct.

Chairman Fine said if you're getting more storage because you building a bigger garage and storage space on top, we get rid of that shed, you're getting rid of the 86% that you need, bring it back down to or below the maximum allowed.

Mr. Scavelli said okay, yes, I see what you're saying.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was adjourned, more information was requested in regards to the application for the garage.

Recording Secretary, Glenda Daly  
Meeting adjourned at 7:21pm  
Happy Zoning!