

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
DECEMBER 17TH, 2020**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, December 17th, 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 Robyn Steinberg, Town Planner/Host, Kyra Brunner, Legal Department Assistant, and Adam Rodriguez, Special Counsel. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held January 28th, 2021. Mailings are to be sent from January 4th, 2021 to January 14th, 2021.

NEW BUSINESS

FONZO #37/20 This is an application for a special use permit for an accessory apartment with 1700 s.f. where a maximum of 800 s.f. is allowed and having 3 bedrooms where a maximum of 2 is permitted. All per section 300-21 and 300-38(B)(5) and (6) of the Town zoning Code.
Property Address:
1639 Horton Rd.
Section 15.2, Block 1, Lot 8

Application withdrawn.

FERNANDES #42/20 This is an application to allow an addition with a side yard setback of 12.5' where a minimum of 15' is required, a combined side yard setback of 26.97' where a minimum of 40' is required and a front yard setback of 31.32' 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:
2605 Flagg Pl.
Section 26.20, Block 1, Lot 21

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 January 28th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

EPSTEIN #41/20 This is an application to construct a roofed porch with a front yard setback of 23.07' where a minimum of 40' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is in a R1-20 zone.
Property Address:
2923 Curry St.
Section 27.06, Block 2, Lot 22

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 January 28th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

FREDERICK #40/20 This is an application for an addition with a rear yard setback of 28.67' where a minimum of 30' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-10 zone.
Property Address:
2811 Hickory St.
Section 27.09, Block 2, Lot 44

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 January 28th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

MEDINA #38/20 This is an application to allow a deck with a side yard setback of 4.59' where a minimum of 15 is required as per 300-241 of the Town Zoning Code. This property is in a CC zone.
Property Address:
445 East Main St.
Section 17.05, Block 1, Lot 3

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 January 28th, 2021, and referred to the Building Inspector and Planning Department. Site Visits will be done by the Board members separately.

CLEARY #39/20 This is an application to allow an existing deck with a rear yard setback of 1.64' where a minimum of 10 is required as per 300-21 and Appendix A of the Town Zoning Code. This property is in a R1-10 zone.
Property Address: 3443
Lakeside Dr.
Section 15.16, Block 2, Lot 39

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 January 28th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

JARA #43/20 This is an application to allow a retaining wall and fence in the rear yard with a height of 9' where a maximum of 6.5' is permitted as per 300-13(F).
Property Address: 1745
Central St.
Section 48.07, Block 1, Lot 34

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 January 28th, 2021, and referred to the Building Inspector. Site Visits will be done by the Board members separately.

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 Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on January 28th, 2021, and referred to the Building Inspector, Planning Board and Planning Department. Site Visits will be done by the Board members separately.

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 Fahey, Fine, Gregory, Meisterich, and Tripodi, this item was scheduled for a Public Hearing on January 28th, 2021, and referred to the Building Inspector and Planning Department. Site Visits will be done by the Board members separately.

CONTINUED PUBLIC HEARINGS

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

Chairman Fine read the memo from the Town Engineer dated, December 7, 2020 states: The Engineering Department has previously sent (2) communications to the ZBA concerning the subject property, dated 9/24/20 and 10/22/20. Our technical review comments were based on a plan submission made by the Applicant in May 2020.

We subsequently received an engineering plan re-submission from John Karell, P.E. on 11/28/20 and revised calculations were re-submitted 12/7/20.

Our technical review is based on the updated documents that were submitted in support of this application and the design elements that were incorporated into the development of the adjacent lot (2052 Allan). We also had a phone conference with Mr. Karell on 12/7/20 to further discuss the basis of design for 2060 Allan Avenue.

We note that the engineering design of 2052 Allan Avenue, which we confirmed in a follow-up discussion with the design engineer Joe Riina, was based on eliminating the potential for stormwater runoff onto properties beyond the rear property line (properties that are located on Midland Drive and Breton Court). The storm water infrastructure design incorporated underground storage for all rain events up to the 100-year storm event, which is 9.25-inches of rainfall over a 24-hour period.

In the engineering design for 2060 Allan, the engineer incorporated the following:

1. A total of eighteen (18) underground stormwater detention units to capture all runoff from the 10-year rainfall event (5.1-inches of rain over 24 hours). The units will be installed in the rear yard with a 6-inch stone sub-base.
2. As per the engineering calculations, in a 25-year rainfall event (6.5-inches of rain over 24 hours), approx. 75% of the run off will be captured in underground stormwater detention units. The remaining runoff will be infiltrated back into the ground surface or flow overland.
3. In the 100-year rainfall event (9.25-inches of rain over 24 hours), approx. 25% of the run off will be captured in underground stormwater detention units. The remaining runoff will be infiltrated back into the ground surface or flow overland.
4. A 2-foot high berm will be constructed along the rear property line to further minimize the potential for runoff onto adjacent properties and to minimize the velocity of overland flow.

The design approach out lined above is reason able in that it: (1) captures & treats the full water quality volume for 10-year rainfall event; (2) captures & treats a significant percentage of the water quality volume for the 25-year and 100-year rainfall events; (3) achieves minimum 80% Total Suspended Solid (TSS) removal and 40% Total Phosphorus (TP) removal; and (4) Incorporated a berm and plantings to further reduce impacts of runoff through a steep slope.

In conclusion, we have no objection to an approval/variance being granted to this Applicant. We recommend the following conditions be included:

- Submit a final set of engineering plans & calculations to the Engineering Department to show the final layout of eighteen (18) underground stormwater detention units. The units shall include an inspection port, 6-inches of gravel sub-base and a surface emitter.
- The final set of plans should remove any notes that indicate a septic-type wastewater system

- will be provided (lot to be on Town sewer). Include a construction detail for the berm.
- Post a \$1,000 landscape bond to provide a guarantee that the constructed berm is stable and that the shrubs will survive a minimum of two (2) planting seasons.
 - The licensed professional should provide oversight during the site work construction and prepare bi-weekly SWPPP reports in accordance with NYSDEC standards. A Notice-of-intent shall be filed with the NYSDEC prior to the start of construction work.
 - Prior to project closeout, a Stormwater Maintenance Agreement shall be executed between the Town and the Applicant. This will obligate the property owner to inspect and maintain the stormwater infrastructure and file a yearly report with the Town.

Chairman Fine did not see any other memos in the file and this memo summarizes everything that was submitted.

Mr. Barile said they have a memo dated December 15, 2020. They had sent in all the changes, amended everything Mr. Quinn asked them to amend. Sent in the drawings, sent in everything that was requested.

Chairman Fine said this is a very similar application to the property immediately next door, which was approved. So as long as the applicant is meeting the same criteria that the other applicant went through he does not see a basis to deny it.

He asked the other Board Members if anyone feels differently.

Mr. Fahey said originally when we spoke about the compatibility with the system that was put in on the other house.

Chairman Fine said that is what Mike Quinn was saying.

Mr. Fahey said if that all it is, then he has no objections.

Michael Epting, neighbor, said he had a few comments regarding the application. First, have not seen or heard of a tree survey and permit to remove the trees from the lot, or how much disturbance, or how many cubic yards of fill will be required, and how many dump trucks will be required to deliver them.

Chairman Fine told Mr. Epting that really is not part of the application to this Board. That is part goes to the Building Department for approving or not approving the application. We are merely here to approve the variance itself. How he does it is between him and the Building Department.

Mr. Epting said his next comment will be that during the Zoning Board hearings for the neighboring property, Joe Riina and RPG presented detailed plans and discussed the whole project before the Board in a very transparent manner, and we spent a lot of time understanding and discussing the stormwater permit and the culvert infiltration system to ensure that the stormwater would not runoff onto the neighboring properties. So far, the system is working perfectly and have not seen any runoff issues. Since these properties project are so similar, should hold the applicants to the same standards that were applied to the RPG property next door.

Chairman Fine said the Town Engineer in his memo said he was doing that. There are a series of memos in the file between the applicant and the Town Engineer discussing stormwater plan, and one of the first memos the Engineer made a statement of saying that it should be similar to the application next door. He wanted to see it re-submitted. They then re-submitted the plans, then the Engineer came up with the December 7th memo, basically saying he is approving of what they are doing.

Mr. Epting said because we are all on Zoom these days, but with all do respect to these applicants, as a public we have not seen any detailed plans for the application more than a superficial basis. Just hoping there is nothing we do not become aware of until the house is in place and it is too late to make any changes.

Chairman Fine said the plans were submitted for the house, plans were submitted for the treatment of the stormwater. Those are all on file with the Town. Based upon the plans submitted the Town Engineer is basically giving his approval of the project.

Mr. Epting said that he will like to not that this was a less transparent hearing this time as compared

to Joe Riina and their presentations for the neighboring property.

Chairman Fine told Mr. Epting you have to understand two (2) things. First, you already touched upon it, this is a Zoom meeting which is more difficult to see everything up and running on the screen unless the plans are put up on the screen. The plans were submitted.

Secondly, the first applicant, the one you are referring to on Allan Avenue that Mr. Riina did, that was a first time application for that area, for that type of project. So what we are doing here is the Engineer basically said to them was show me what you can do that is basically the same as what happened next door. So you do not see the whole blown up application that you saw last time. All the information is still there.

Mr. Gregory said if fact, the memo that we just talked about does state that there was some discussion with Joe Riina on this particular application.

Mr. Fahey told Mr. Epting we were all concerned about what was going to transpire with the stormwater and how it would be treated. In our last meeting we purposely asked that a review be made to make sure that the system that is being proposed is compatible with the system that is already there. That is why the memo that Mr. Fine just read should satisfy that we are addressing your concerns as well as our concerns.

Mr. Epting responded fine. One final appeal for installing a couple of parking spaces off of Allan Avenue. All the houses on that side of the street have winter parking spots at street level and to ignore that does not make sense.

Chairman Fine said the applicant has already reduced the slope of the driveway, which will make the driveway more accessible even in the winter, it is not as steep.

Chairman Fine asked the applicant if there is a place to put off street parking.

Mr. Panny said yes, the top 30ft. of the driveway is just about flat by today's criteria for driveway slopes. There is already a parking spot right at the top of the driveway for at least one (1) car.

Mr. Epting said he have not seen those plans.

Mr. Panny said if there is room for a spot on the top, they are always going to make it as easy as possible for parking if it can be done, but as of right now the way the plan is drawn, it does show the first 30ft. of the driveway is at 3% which is just about flat, and the whole driveway only goes down at 10% which is 10 inches per every 10ft., that is almost flat too.

Chairman Fine asked the applicant what is the length of the driveway.

Mr. Panny said it is 85ft. total.

Chairman Fine asked what is the width of the driveway.

Mr. Panny said it is 12ft.

Mr. Epting asked if the application needs to be reviewed by the Town Board because of slope and the trees that needs to be removed.

Chairman Fine said if there are any other applications that needs to be reviewed by any other board, it will have to be done.

Mr. Meisterich said he wanted to comment on what was stated by Mr. Epting regarding the transparency. Would like him to be rest assured that as we are going through the Zoom calls, we have all the plans that we can review, it is just not like a public meeting where you put it on the easel. So we are seeing all of these details and have it. Just did not want anyone to think this was other than the normal job we try to do, looking at everything.

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 a building lot with an area of 10,000 s.f. where a minimum of 20,000 s.f. is required as per 300-21 and Appendix A of the Town Zoning Code. With the condition that the house be built per the plans submitted, and the drainage be done in accordance with all of the required comments from the Town Engineer contained in the December 7th and subsequent memos from the Engineering Department.

FIORITO #24/20 This is an application for a special use permit for a new accessory apartment.

**Property Address:
1625 Central Ave.**

Section 48.07, Block 2, Lot 28

This application was adjourned so the applicant can submit a parking plan.

Martin Henning, Architect, representing the applicant. He said the parking plan was submitted. By code needed they needed a total of three (3) spaces and the parking plan shows there is one space in the existing garage and there are two (2) existing parking pads on the asphalt.

Chairman Fine said it looks like the applicant have complied with what they needed to comply with. No objections from the Building Department as per the October 6th memo.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for a special use permit for a new accessory apartment was granted for a period of three (3) years. It must be in substantial compliance with the plans submitted.

HAIGHT #25/20 This is an application for the new owner applying for a special use permit for an accessory apartment with 906.5 s.f. where a maximum is 800 s.f. is allowed.

**Property Address:
1228 E Main St.**

Section 16.10, Block 2, Lot 76

Mailings and sign certification in order.

Email from the Assistant Building Inspector dated, December 14, 2020 states: The premises was inspected and have no objections.

Mr. Haight said there was no changes, just change in ownership.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for the new owner applying for a special use permit for an accessory apartment was granted for a period of three (3) years.

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

**Property Address:
708 Garth Court**

Section 26.12, Block 3, Lot 37

John Christensen present for the meeting, he said as discussed last meeting the shed is 5ft. where 15ft. is required because that is the side yard.

Memo from the Assistant Building Inspector dated, December 13, 2020 states:

This is an application to allow an existing shed (under100s.f.) with a rear yard setback of 5' where a minimum of 10' is required and an existing pergola with a rear yard setback of 5' where a minimum of 10' is required.

In researching this property, I found 2 previous decisions by the ZBA., which I submitted last meeting. The 1st was from 2001 for a shed in a rear yard that calls the front yard Heathercrest. The last variance, for an addition, was for a front yard addition, calling the front yard Garth Ct. I believe that in the later decision, either a mistake was made or it was misrepresented. Calling the front yard Garth Court makes the yards non-conforming, besides the fact that a fence would also be non-conforming. If it is possible to call the front yard Heathercrest, the variance, if granted would read "a shed in a side yard with a side yard setback of 5' where a minimum of 15' is required, a combined side yard setback of 38' where a minimum of 40' is required and a pergola with a rear yard (rear/side) setback of 5' where a minimum of 10' is required as per sections 300-21 and Appendix A of the Town Zoning Code". I have inspected the property on November 17, 2020 and have no objections in granting relief. The applicant will need a building permit and certificate of occupancy for the pergola.

Mr. Meisterich asked with the front yard variance it is not clear from the plans submitted which street were you encroaching the setbacks on, Garth or Heathercrest.

Mr. Christensen said Garth.

Mr. Gregory said the original house was set up so that the front yard setback would be from Heathercrest, he believe.

Mr. Christensen said the driveway was always on Garth Court.

Mr. Meisterich said he does not see anything in any of these decisions.

Mr. Gregory said the way the house was originally constructed, the front yard setback was set up as being on Heathercrest Drive. There was a Zoning Board action that occurred back in early 2000 that basically legalize a shed in the rear yard which was correct. When the applicant built the addition on the house, that application was unfortunately poorly worded and it in essence made Garth Court the front yard when it really was not. When we did the site inspection we looked at the fence that was on the property that was in the rear yard and it would only be a rear yard if it was set up on Heathercrest as the front yard. We had the discussion where we were going to change the wording.

Mr. Meisterich said he does not agree with the Building Department memos. If Garth if the front yard the frame shed is in the rear.

Mr. Gregory said the problem is that Garth really is not the front. There was a discussion regarding front yard and rear yard in relation to where the shed is.

When the house was originally built it had a front yard from Heathercrest, it had a side yard of 27.3ft., it had a side yard equal to a front yard on Garth of 41ft. and a rear yard of 60ft. or so behind the house with the front yard being Heathercrest. The way it was originally set up 27.3ft could not be a rear yard if you said Garth Court was the front yard. That is the way the house was originally built, and as a result of that, the variance was for a frame shed in the rear yard. However, when they did second variance they misspoke in essence by saying Garth Court was also a front yard when it really was not, could not be, because if Garth Court was a front yard then you would have a violation on the original house for the rear yard.

Mr. Meisterich asked how big is a rear yard supposed to be.

Mr. Gregory said 40, it is a R1-20 zone.

Mr. Tripodi asked Mr. Gregory what establishes what the front yard is. Is there any definitive document that establishes that the front faces Heathercrest Drive.

Mr. Gregory said the only way you can look at it on a factual basis is to take a look at the yards that surrounds. If this building was built correctly, you would have to call Heathercrest Drive the front yard because 27.3ft. cannot be a rear yard.

Mr. Tripodi asked but it qualifies as a side yard.

Mr. Gregory said right, it qualifies as a minimum 15ft. side yard but it does not qualify as 40ft. rear yard. Heathercrest has to be the front yard. Garth, because it is a corner lot has to be 40ft. because of that rule, but it does not necessarily turn it into a front yard, it is still a side yard.

Mr. Meisterich said so the variance that allowed it to be 38ft. away from Garth should have been a side yard that is supposed to be equivalent to a front.

Chairman Fine said which is why the Building Department latest memo said otherwise you have non-conforming yards.

Mr. Gregory said what we are looking at here is an application for a variance for a shed in a side yard and a pergola in a rear yard.

Chairman Fine said going back to the application itself, there are two (2) sheds on the property. It look like both sheds are in line with each other on the property.

Mr. Christensen said yes.

Chairman Fine said the first shed also had a variance, basically asking to put a second shed on the property as well.

Mr. Meisterich said we also now have the pergola introduced.

Mr. Christensen said the pergola is a new structure but the vines and the other pergola was there for over 40 years, and a point of reference, included a photo from 2001 showing the old pergola when

applied for the first shed variance.

Chairman Fine said his particular concern is not necessarily the pergola, the concern is you have two (2) sheds looking at each other and they are both facing the neighbor's property.

Mr. Christensen said the bushes are very high there as you see in the pictures, you cannot see through there and other part of it, the one shed he is applying for the variance for it acts as a fence for the property. Have a fenced in property and by having the shed there it fences in the property and the other part of it is the other part of the property cannot be used because if you look at the survey, have an easement that was granted for a 30ft. sewer line, so that knocks out a good portion of the property where he could put the a shed.

Chairman Fine asked, the shed that you are asking for the variance for, is that the one that is next to the pergola or the other one.

Mr. Christensen said he received a variance for the one that is next to the pergola in 2001.

Chairman Fine asked how long have the shed that he is applying for been there.

Mr. Christensen said since 2005.

Chairman Fine asked if there is any violation on it.

Mr. Christensen said not, it is 8x10.

Mr. Gregory asked Mr. Christensen if he indicated at the last meeting that he had moved the shed from some place else on the property.

Mr. Christensen said yes, he purchased it in early 2000s and when he did the addition it was right against the house, after the addition was done he did not want it there anymore. When they took the shed away the siding showed dampness and was told try not put the shed near the house again. Also when they were doing the construction they destroyed the platform that was there. The shed works well there, from the street you have a bunch of trees, have rocks in front of it. Try to make it appealing from the street, does not want something that is an eyesore. It is not something that sticks out, maintain it well.

Chairman Fine asked about the watercrafts parked the yard, who submitted the photos.

Mr. Aubry, neighbor, said she submitted the photos to show things from her perspective.

Mr. Christensen said he submitted those photos, he does not want to get into it but he is not happy with the overall condition of how they maintain their yard and other people have issues with it as well.

Mr. Meisterich asked who's jet skis are they?

Mr. Christensen said they are the neighbor's jet skis.

Mr. Aubry said they are their jet skis, they are all completely intact and covered.

Chairman Fine said there is also a photo of a trailer.

Mr. Christensen said there is a trailer there, there is a car there, there is a tub.

Chairman Fine asked if it is just photos of the neighbor's property.

Mr. Christensen said correct, and that is the reason why he want to have some kind of barrier, there is also a bunch of building supplies. He is not the only one that have a problem with it.

Chairman Fine said lets not talk about who have a problem with what, just want to know what the pictures are of.

Mr. Christensen said that is why the bushes are so high.

Mr. Tripodi asked if we have establish Heathercrest as the front yard, these sheds are all along the side property line, are we talking about a 15ft. setback instead of 10ft.

Mr. Gregory said on this particular application you are correct, it is a side yard setback of 5ft. where 15ft. is required for this particular shed.

Mr. Tripodi said the application would have to be amended then.

Chairman Fine said it was going to be amended in accordance to what the building department sent us.

Mr. Christensen said the shed is in a perfect spot on that part of the property, do not want to focus on them.

Mr. Christensen showed a series of photos of the property between him and the neighbor and the

water levers.

Mr. Aubry explained about the water levers and said she wanted to explain her side of the story. She said in regards to the pergola, in her opinion it is larger than what the other one was. No discussion was made on that, no input. She is adamant about rejecting permission for him to have the pergola that close to her property and that shed as well. Respectfully asked for the code to be upheld. There are reasons for code, just asking to please enforce them.

Chairman Fine asked Mr. Christensen if there is enough space behind the shed and to the side of the shed to install evergreen bushes to block the view of the shed from Ms. Aubry property.

Mr. Christensen said he would be happy to do that.

Ms. Aubry brought up the issues of the odor coming from the shed.

Mr. Christensen said when the Town came by, to his knowledge, there was no odor that they said something about.

Chairman Fine asked if anyone had any comments.

Mike Bourgeois, neighbor, said he has known the Christensens for quiet some time, at no time did they ever have issues with the view of the shed that they are speaking of that is in direct line of their house. He maintains the property, has done nothing but increase the value of our neighborhood. For the record they have no objections.

Joseph Shkreli, neighbor, said he lives on Garth Court, just wanted to echo the previous comment that John and his wife are stand up residence. They take great pride in this neighborhood, they take great pride in Yorktown, they take great pride in the curb appeal. One thing he can say about John is he is always outside working, improving the landscaping on his yard.

Ms. Aubry said she appreciates the neighbors are in support of her neighbor, but she feels she is entitled to have the setbacks as they were meant to be.

Mr. Meisterich said if you look at this property, and we have talked at length that this is now the side and what the rear yard is, which is actually fronting a street. All inside that white privacy fence is a huge area of the rear yard to fit the shed in. The applicant has not really stated why he cannot fit it back in the rear yard. It is very rare that we have sheds in our side yard in these neighborhoods in Yorktown. Since the neighbor is not interested in evergreens, that way heavily on our deliberations. Mr. Christensen said please keep in mind this is a corner property, it is a little funky and also have the sewer easement that takes up part of it.

Chairman Fine asked how long has he owned the property?

Mr. Christensen said since 1996.

Chairman Fine asked for the last 24 years how many times have the easement been torn up to fix the sewer?

Mr. Christensen said it becomes an issue because if he wants to put in a pool or a deck.

Chairman Fine said right now you are asking for a variance for the shed.

Mr. Meisterich said for the sake of zoning, you could have your shed 10ft. off Garth Court in now the rear yard which we have talked at length about what it is. So that is kind of unusual but that would be legal in comparison to what you are trying to do. There is a huge footprint of area that you could use. It is hard for me personally to justify having a shed in your side yard when you have so much space in your rear yard to comply.

Chairman Fine said most of the time we are dealing with shed issues they are in what we like to call the shed corner, because it is the only place where they go on the property that makes any sense. In this case you have a pretty large piece of property where the shed could go legally without any variance whatsoever. The first thing we have to do when looking at any variance application is to determine if the applicant can achieve what they want without us granting a variance.

Mr. Gregory said one of the issues is that this shed has been moved already when it was next to the house, even though it may have adversely affected the siding, it was in a legal location and basically what happened it was moved.

Mr. Christensen said at this point if have to move it, it would not survive the move. It is plastic and has been there for 20 years.

The Board Members and the applicant discussed the matter further. Chairman Fine said going to amend the application. First to designate Heathercrest to be the front yard.. Make this an application for a shed with a side yard setback of 5ft. where a minimum of 15ft. is required, a combine side yard setback of 38ft. where a minimum of 40ft. is required and a pergola with a rear side setback of 5ft. where 10ft. is required.

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 the pergola with the condition that it pertains only to the requested variance and not the remainder of the property line. The application for the shed is denied.

NEW PUBLIC HEARING

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

Gordon Fine recused. John Meisterich chairing this application.

Michael Grace, Attorney, representing the applicant.

Anthony Sarlo present for the meeting.

Mr. Grace said he was going to drop off the receipt for the mailings but did not get there due to weather, he have them. Mailings was sent by him and Mr. Sarlo.

Chairman Meisterich asked Kyra Brunner if she received a copy of the mailings.

Ms. Brunner said yes

Mr. Grace said he have a second set which is much more encompassing than the set that was sent out by Mr. Sarlo.

Chairman Meisterich asked Mr. Grace to try and share it on the screen.

Mr. Grace said he was not in his office.

Chairman Meistrich said he cannot open with the mailings.

Mr. Grace said that is fine with him, sent them all out. Met in front of the Town Board in regards to this application, was going to get a site visit with the Supervisor, Matt Slater, but have not been able to schedule it.

Mr. Sarlo asked Ms. Brunner to confirm receipt of the mailings he sent her. Ms. Brunner confirmed receipt.

Chairman Meisterich said can do something a little odd to say open the hearing pending review of these mailings, if they are in order then the hearing is open and adjourned, and if they are not will have to do it for next month.

Chairman Meisterich asked the Board Members if they are comfortable opening the hearing pending the receipt of the mailings.

Mr. Gregory said he would suggest opening the hearing and we are not taking testimony right now and adjourn it. The only thing he would do is clarify in his own mind what this application is about.

Mr. Grace said it is a difficult one because looking for outdoor storage in an R district, so it does not fit into a special use permit for outdoor storage because it is restricted.

Mr. Gregory told Mr. Grace what we are looking at is a use variance, and you understand how difficult that is going to be.

Mr. Grace said yes, and how high the bar is. They actually had a discussion with the Town Board, they did not seem to adverse to taking a hard look at it, even in regards to possibly rezoning it. Think the big issue is what DEP comes back with in the comments.

Mr. Gregory said at the end of the day, the Town Board is probably going to be the Board where you should be as appose to the Zoning Board.

Mr. Grace said he agrees.

Chairman Meisterich said given what was just stated that the application anyway is a special use permit, that is probably not event a valid application per say. Why bother opening the hearing to request a special use permit since you will have to amend it to be a use variance.

Mr. Grace said it is one of these things that does not fit.

Mr. Fahey said we can open this now and adjourn to next month, you could always withdraw it after the meeting with the Town Board.

Mr. Grace said Anthony is trying to see what he can do with it although it does not fit nicely within the box.

Mr. Gregory said it does not fit at all.

Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Fahey, Gregory, Meisterich, and Tripodi, the hearing is open pending review of the receipt of the mailings.

Chairman Fine said have reviewed all the submissions, as far as the mailings, the sign affidavit and photos, we were told due to the snow the mailings are out, the receipt are in possession of the applicant and they have no made it to the Board yet. On that assertion we will open the hearing for tonight and will review at the next meeting whether the mailings are accurate. If they are not will have to re-notice.

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

FAIVRE #33/20 This is an application for a special use permit for the renewal of an accessory apartment.
Property Address:
1420 Trout Brook Dr.
Section 48.14, Block 1, Lot 44

Mailings and sign certification in order.

Memo from the Assistant Building Inspector dated, December 9, 2020 states:

The subject premises were inspected on November 4, 2020, and no changes have been made to the apartment since the previous approval. The use will continue to be in substantial compliance with applicable building and zoning regulations. 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 Fahey, Fine, Gregory, Meisterich, and Tripodi, the application for renewal of a special use permit for an accessory apartment was granted for a period of three (3) years.

GROTE #32/20 This is an application for a proposed addition with a front yard setback of 25.76' where a minimum of 40' is required, a combined side yard setback of 37.31' where a minimum of 40 is required and a building coverage of 21.90% where a maximum of 20% is allowed. All per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
3414 North Shelly St.
Section 16.13, Block 2, Lot 53

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant.

Mr. Tetro show the site plan and layout of the property. He said this is an existing one (1) story house, adding a two (2) story garage to the right side of the house with a one (1) story portion in the back.

Memo from the Assistant Building Inspector dated, December 13, 2020 states:

This is an application for a proposed addition with a front yard setback of 25.76' where a minimum of 40' is required, a combined side yard setback of 37.31' where a minimum of 40' is required and a

building coverage of 21.90% where a maximum of 20% is allowed. As per section 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone. I have inspected the property on December 9, 2020 and have no objections in granting relief. The applicant will need a building permit and c.o. 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 proposed addition with a front yard setback of 25.76' where a minimum of 40' is required, a combined side yard setback of 37.31' where a minimum of 40' is required and a building coverage of 21.90% where a maximum of 20% is allowed. All 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.

GOLIO #36/20 This is an application to allow an existing deck and an expansion of this deck with a combined side yard setback of 38.69' where a minimum of 40' is required as per 300-21 and Appendix A of the Town Zoning Code.

Property Address:

2936 South Deerfield Ave.

Section 36.12, Block 3, Lot 2

Mailings and sign certification in order.

David Tetro, Architect, representing the applicant. He said there was a deck application a while ago and the owner had extended the deck with a pool along the line of the existing deck. They replaced the railings and the decking. The Building Department came and issued a violation. They legalized the deck and as they are going through the process found out they were short on one of the side yards.

Memo from the Assistant Building Inspector dated, December 9, 2020 states:

This is an application to allow an existing deck and the expansion of an existing deck with a combined side yard setback of 39.20' 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. I have inspected the property on November 10, 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 deck and an expansion of this deck with a combined side yard setback of 38.69' where a minimum of 40' 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.

FRAGETTE #34/20 This is an application for an existing carport with a front yard setback of 24.6' where a minimum of 40' is required, a side yard setback of 1.85' where a minimum of 15' is required and a combined side yard setback of 25.35' where a minimum of 40' is required. An existing deck in the rear yard has a side yard setback of 8.4' where a minimum of 10' is required. All per section 300-21 and Appendix A of the Town Zoning Code.

Property Address:

3281 Elk Ct.

Section 17.14, Block 3, Lot 32

Mailings and sign certification in order.

Joseph Riina of Site Design representing the applicant.

Mr. Riina said the property is zone R1-20, the size of the property is 37,508 sq.ft., well above the minimum 20,000 sq.ft.. The property owners have lived at the house since 1998. During the period of living there, in about 2005 they constructed an above ground pool with a deck around the pool. In 2000 they added a carport addition on the left side of the house.

Mr. Riina showed an aerial photo of the property. He said he wanted to point out the cul-de-sac and how exaggerated it is. Typically a cul-de-sac right of way is somewhere in the vicinity of 110-120ft.

diameter where this is 140ft. diameter, so have quiet an intrusion into what would have been frontage or additional front yard for this property, not that it is relative but wanted to point that out as far as distance from the roadway that really exist.

The variance that is required, the 1.85 is to the roof overhang of the carport, the actual column line that supports the roof is only 5'2" from the property line. Took the worse case scenario and asking for a variance to the roof overhang. This is a legalization of both of these structures. For the deck they are at 8.4ft. where 10ft. is required, that is the third variance. The second variance is the total combined side yard where 40ft. is required, they are at 20ft.

Chairman Fine asked how long have these structures been there.

Mr. Riina said the carport has been there since 2000, and the swimming pool and deck since 2005.

Mr. Fahey asked when the pool outlive it useful life, which is like 30yrs., and the next tenant comes in or someone buys the house and the pool and deck is removed, will everything have to fall into compliance with that, if we say okay and go along with the setbacks they are looking for, could you restrict it to what is there now and once that is gone it goes back to the original.

Chairman Fine said the variance has to run with the property.

Mr. Meisterich asked if the deck is a free standing deck.

Mr. Riina said yes, it is elevated all the way around.

Mr. Meisterich asked if there is footings in the ground.

Mr. Riina said yes, there is footings in the ground supporting the deck.

Mr. Meisterich said it does not look to hard to chop a little off to make it comply.

Mr. Riina said it would require an alteration of the actual structure of the deck because in the corner you have a pier, and you would have to take that pier out.

Memo from the Assistant Building Inspector dated, December 9, 2020 states:

This is an application for an existing carport with a front yard setback of 24.6' where a minimum of 40' is required, a side yard setback of 1.85' where a minimum of 15' is required and a combined side yard setback of 25.35' where a minimum of 40' is required. An existing deck in the rear yard has a side yard setback of 8.4' where a minimum of 10' is required. As per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone. I have inspected the property on November 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 for an existing carport with a front yard setback of 24.6' where a minimum of 40' is required, a side yard setback of 1.85' where a minimum of 15' is required and a combined side yard setback of 25.35' where a minimum of 40' is required. An existing deck in the rear yard has a side yard setback of 8.4' where a minimum of 10' is required. All 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.

GALVIN #35/20 This is an application to allow a shed with a side yard setback of
Property Address: .6' where a minimum of 15' is required and a deck with a rear yard
2864 Hedwig Dr. setback of 7.5' where a minimum of 10' is required as per 300-21
Section 27.10, Block 2, Lot 25 and Appendix A of the Town Zoning Code.
Mailings and sign certification in order.

Gordon Fine recused. John Meisterich chairing this application.

Joseph Riina of Site Design representing the applicant.

Mr. Riina said this property is in R1-20, however, it is not relevant but will dispute the location of the line because everything across the street and around it are R1-10. The R1-20 line goes around this property, this should have been in it because of the size of the site. Was meant to be in the R1-10

not in the R1-20.

The property is 14,323 sq.ft., the application is for a variance for the deck and for the shed on the right side of the house. There was a pool, a tree fell and took the pool out so to fill the void the property owner had the deck expanded to cover the area.

Then there is the shed, there is a PVC fence between the two properties and the adjacent property owner have a shed right up against the fence adjacent to this shed.

Chairman Meisterich asked for the deck, are we legalizing something that is there now.

Mr. Riina said yes, this is a legalization.

Mr. Riina showed photos showing the layout of the properties.

Mr. Fahey asked how long has the deck been there.

Mr. Riina said the original deck goes back to before 2000 from looking at aerial photos.

Mr. Riina showed the site plan and photos of the deck.

Mr. Fahey asked how long has the shed been there.

Mr. Riina said from looking from the aerial photos, before 2000.

Memo from the Assistant Building Inspector dated, December 9, 2020 states:

This is an application to allow an existing shed (under 100s.f.) with a side yard setback of 6' where a minimum of 15' is required and a deck with a rear yard setback of 7.5' where a minimum of 10' is required. As per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone. I have inspected the property on November 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 Meisterich, seconded by Fahey and unanimously voted in favor by Fahey, Gregory, Meisterich, and Tripodi, the application for a variance was granted to allow a shed with a side yard setback of 6' where a minimum of 15' is required and a deck with a rear yard setback of 7.5' where a minimum of 10' 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.

Recording Secretary, Glenda Daly
Meeting adjourned at 8:51pm
Happy Zoning!