

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
SEPTEMBER 23RD, 2021**

The regular monthly meeting was held for the Zoning Board of Appeals via Zoom, September 23rd, 2021. 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
Alternate: Howard Orneck

Also present is Kyra Brunner, Legal Secretary, 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 October 28th, 2021. Mailings are to be sent from, 2021 to, 2021.

NEW BUSINESS

GAUR #45/21 This is an application for a special use permit for an accessory apartment
Property Address: 1798
French Hill Rd.
Section 37.18, Block 1, Lot 7

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.

ARGIRO #44/21 This is an application for a special use permit for the parking of a commercial vehicle in a residential area as per section 300-62 of the Town Zoning Code.
Property Address: 3517
Kamhi Drive
Section 16.11, Block 3, Lot 45

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

GORDON #43/21 This is an application to allow an existing gazebo in the rear yard with a setback of 4.5' where a minimum of 10' is required and a porch with a front yard setback of 24.6' 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: 917
Parkway Place
Section 16.11, Block 3, Lot 42

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

CONTINUED PUBLIC HEARINGS

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

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

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

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

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

Not opened.

NEW PUBLIC HEARING

FOX #37/21 This is an application for a special use permit for the renewal of
Property Address: 2309 Vista an accessory apartment.
Ct.
Section 37.05, Block 1, Lot 31

Mailings and sign certification in order.

Stephanie Fox, Architect, representing Jeannie Hudec, the owner and mother.
Ms. Fox said the application is for renewal of an accessory apartment. The original variance was granted back in 1996 for the accessory apartment and subsequently renewed consistently through 2005, at which time my grandmother passed away at the ripe old age of 99. Nothing in the apartment has changed since its' inception in 1996. Originally my parents bought the house back in 1978, and in your packet you can see originally on the lower floor there is a study and 4th bedroom. My parents converted one of the bedrooms into the kitchen area, and expanded from ½ bath to a full bath.

Memo from the Assistant Building Inspector dated, September 17, 2021 states:

The subject premises were inspected on September 17, 2021, 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.

ROVIEZZO #38/21 This is an application for a special use permit for the renewal of an accessory apartment.
Property Address: 74 Jennifer Ct.
Section 6.18, Block 1, Lot 62

Mailings and sign certification in order.

Mario Roviezzo appeared before the Board.

Memo from the Assistant Building Inspector dated, September 17, 2021 states:

The subject premises were inspected on September 15, 2021, 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.

NEW CINGULAR WIRELESS #42/21 This is an application for a renewal of a special use permit for the existing wireless telecommunications facility
Property Address: 2649-2651 Strang Blvd.
Section 26.19, Block 1, Lot 2

Mailings and sign certification in order.

Daniel Patrick, Attorney with Fader & Cuddy on behalf of AT&T.

Mr. Patrick said AT&T is simply seeking to renew a special use permit for the existing wireless facility at 2649 Strang Boulevard, it is a roof top facility that has existed since around 2004 when it was originally approved. We are not proposing any changes, we are just simply looking to renew the special permit.

Memo from the Assistant Building Inspector dated, September 20, 2021 states: The application has no upgrades, and the Building Department has no objections.

Memo from the Fire Inspector dated, September 20, 2021 states: On September 16, 2021 I performed a fire and safety inspection at 2649 Strang Blvd. This inspection included the wireless communication facilities located on the roof. During my inspection I found no violations of the State and local fire codes. At this time I have no objection to the proposed wireless communication special permit renewal.

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 the existing wireless telecommunication facility was granted for a period of three (3) years.

IPARRAGUIRRE #36/21 This is an application to allow a 6' fence in the front and side yards where a maximum of 4.5' is permitted as per 300-13(f) and the town zoning code. This property is located in a R-2 zone.
Property Address: 1765 Hanover St.
Section 37.19, Block 1, Lot 50

Mailings and sign certification in order.

Julie and Eric Iparraguirre appeared before the Board.

Mrs. Iparraguirre said we want to put up fences on the side of Richards and Hanover just mainly for the safety of our kids. I know the limit is 4ft. but we want a little bit taller than that just because it is a busy street on Hanover.

Mr. Tripodi asked is this a corner lot or interior lot?

Mrs. Iparraguirre said corner.

Memo from the Assistant Building Inspector dated, September 17, 2021 states:

I have inspected the property on September 15, 2021 and noticed that there is a 6' fence in the opposite side yard and that will need a variance. I have no objections in granting relief for the existing and proposed fencing.

Chairman Fine asked is the 6ft. fence yours or someone else's.

Mrs. Iparraguirre said we put up that fence.

Letter from Karen Corcoran dated, September 22, 2021 with comments in opposition to the variance.

Chairman Fine said she is talking about a daycare center. Is there a daycare center?

Mr. & Mrs. Iparraguirre said no.

Chairman Fine said it is a question of whether you have or not, now you are saying you do not, but we cannot predict what you are doing in the future. I do not know what she is basing this information on.

Mrs. Iparraguirre said no we are not planning on opening a daycare at all.

Mr. Tripodi said earlier when you mentioned children, they were your children?

Mrs. Iparraguirre said yes, I have 2 daughters and my sister who lives downstairs in the first unit. Maybe that is what she thinks that I am running a daycare because I have so many kids in the house.

Mr. Gregory asked this is a 2-family house?

Mrs. Iparraguirre said it is a 2-family house.

Mr. Fahey read part of the letter from Ms. Corcoran. He said it says "specifically on July 27, 2021, applicant texted me stating I am going to open a daycare at my home and I need a shelter in place in case of emergency".

Mrs. Iparraguirre said I was planning to, but now I am not.

Chairman Fine said as far as it being a detriment to nearby properties, there are plenty of properties in Yorktown that have fences that are foot and half higher than the 4.5ft. maximum, no one has ever shown it was any detriment to anybody, we cannot accept a blanket statement like that without actually giving us some empirical data.

Mr. Meisterich said this is a little bit different I guess, in that the back yard abuts a street also, so that is like a front yard 6ft. fence to the neighbor.

Chairman Fine said but there are plenty of front yard 6t. fence.

The survey and photos of the property was shown.

The Board discussed the location of the fence and where the front yard is.

Mr. Gregory said on a corner lot you pick where it is. In this particular case it can be either Richard or Hanover, unless somebody has already done that for you. So proposing for example in this case that Hanover is the front yard, what they are saying here in the application is they want to have a 6ft. fence in side and front yard, and so they are saying that Hanover Street is the front yard, Richard Place is the side yard. Behind the house is a rear yard. So side yard, front yard, 6ft. fence where 4.5ft. is required. There is no requirement to have a setback on a fence except in the case of a corner lot. You have to respect the site distance triangle. The fence that you have existing right now is on the other side of the property line, is it all in the front or side yard, or is it in the rear yard.

Mrs. Iparraguirre said it is only to the side and front.

Mr. Meisterich said it is probably in the rear by Paine also.

Mrs. Iparraguirre said it goes back to the rear for sure.

Mr. Gregory said part of that fence may be okay at 6ft. if it is in the rear yard and that is why I was trying to figure out exactly where that was.

Mr. Meisterich said with respect to the opposition memo, anywhere behind that house towards Paine could be legally already 6ft, so the applicant could be within their rights with no variance to put a 6ft. fence abutting Paine Street, that whole rectangle behind the house, because that is all rear yard.

Mr. Fahey said that is not the issue here is it.

Mr. Meisterich said it is not an issue but when the opposition is raised to that fence, a legal fence would probably be worse for the neighbor than this one.

Mr. Tripodi asked if the 6ft. existing fence part of the application.

Mrs. Iparraguirre said yes, we want to add that.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Tripodi and voted in favor by, Fine, Gregory, Meisterich, and Tripodi, no by Fahey, the application for a variance was granted to allow a 6' fence in the front and side yards where a maximum of 4.5' is permitted as per 300-13(f) and the town zoning code, also to include the existing side yard fence, with the stipulation it pertains only to the requested variance and not the remainder of the property line.

GUERRA Property Address: 3310 Lookout St. Section 16.17, Block 1, Lot 77	#39/21 This is an application to allow a side yard addition with a side yard setback of 7.75' where a minimum of 12' is required as per 300-21 and appendix A of the town zoning code. This property is located in a R1-10 zone.
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Mailings and sign certification in order.

David Tetro, Architect, representing the applicant. What we are planning on doing is on the north side of the property there is currently a bump out which is the mud room with a deck on the front, and it is going to be filled in with a family room, in the back we are going to add a deck to it. The site plan was showed to the Board.

Memo from the Assistant Building Inspector dated, September 17, 2021 states:

Looking at the survey, there is an existing detached garage that is shown partly in the side yard. I have inspected the property on September 15, 2021. When out on the inspection, it appears this garage is in the rear yard. If we go by the survey, this application will also need a combined side yard setback of 15.15' where a minimum or 24' is required. I have no objections in granting relief for this application.

Chairman Fine asked where is the garage?

Mr. Tetro showed where the garage is located on the survey. He said the way that it is shown on the survey is the front of the garage is skewed slightly and it seems to be projecting forward of the rear line of the house. So in order for it to be considered an accessory structure with allowable 10ft. setback it has to be wholly behind the rear of the house, but when you are on site and standing at the back of the house, you could see that the garage is behind the house. It does not appear to be represented correctly on the survey.

Mr. Gregory said obviously it is supposed to be 10ft. and it is shown 7.3ft., is there an issue with that that we know of?

Mr. Tetro said is has not come up. The only thing that has come up about it is the question as to what are we looking for in a combine.

Mr. Gregory said it may very well have had a variance previously or something like that, so I was wondering if anything has come just showing the location.

Mr. Tetro said I was on the phone with the building department for a while on this and there is no indication that it was illegal or that it needed a certificate of occupancy or anything.

Mr. Gregory said so basically what you are saying from your prospective, the garage is behind the house.

Mr. Tetro said barely, I mean it is not 5ft. behind the house.

Mr. Gregory said it does not have to be as long as it is behind then we do not need to do a combine.

Mr. Tetro said the question that is brought up right now is originally we were asking for 7.75ft. side yard setback for one side, with the combine of 7.75ft plus the 31.5ft. to the house. If the garage is part of the rear of the house, then we are looking for a combine of 7.75ft plus the 7.4ft instead of the 31.5ft. It is like semantics at this point.

Chairman Fine said but your application does not talk about combine side yard setback.

Mr. Tetro said correct.

Chairman Fine said I do not see it being a detriment to the neighborhood or any problem in that regard, the only issue is how we address the building department memo about they are saying according to the survey it looks like the garage is not in the back of the house.

Mr. Gregory said I think the testimony from the professional indicates the thing is behind.

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 is granted to allow a side yard addition with a side yard setback of 7.75' where a minimum of 12' is required as per 300-21 and appendix A of the town zoning code, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and the addition be built in substantial conformity to the plans submitted, and for the purpose of this variance, we determined that the garage is behind the house.

AUSTIN Property Address: 2365 Sherry Rd. Section 36.10, Block 2, Lot 59	#41/21 This is an application for a side yard setback of 7.1' for a deck and 11.3' for a pool where 15' is required as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.
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Mailings and sign certification in order.

Dominic Riina of Site Design Consulting, representing the applicant.

Mr. Riina said this application is for a variance for a deck and a pool deck. It was brought to our attention yesterday that there are a couple other things that we are adding to the variance.

Memo from the Assistant Building Inspector dated, September 17, 2021 states: I have inspected the property on September 15, 2021. When out on this inspection, I noticed a 6' fence in the side yard where only a 4.5' fence is permitted. This will also need a variance. There is also a LP tank, near the deck, that will need to be relocated to comply with NYS Fire Code. I have no objection in granting relief for the existing deck, pool and fence. The applicant will need building permits for this work.

Mr. Riina showed the original survey of the property. He said the original application is for a deck that was added to an existing deck, and then there is a pool and a pool deck around. Where the pool deck is it is only 7ft. long and 11.3ft. where 15ft. is required.

Mr. Gregory asked, that was the original part of the application and that was the original submission. Mr. Riina said right, and then there is these sheds that have been removed since, I am showing that on the plans, and also what was brought to our attention just yesterday was the propane tank which is 3ft. where 10ft. is required.

Mr. Gregory said in other words, basically there were a couple of sheds that were shown on the original survey that was submitted, and has essentially been removed, and you have indicated that on the survey.

Mr. Riina responded, right.

Mr. Riina said there is a little section of fence that is also going to be removed.

Mr. Meisterich said to go back to the fence, there is 3 sections in the picture and he said 1 section is being removed that goes over the property line, but the 3 sections are not compliant because they

are 6ft. tall, those we do customarily.

Chairman Fine said it is up to them what they want to do.

Mr. Gregory said if your intension is to keep the fence the way it is except for the removal of the section that is on somebody else property, then we have to address it here as part of the variance.

Mr. Riina said so we could keep the fence but just get the variance for the height.

Letter from neighbor, Anthony Ambrogio dated, August 24, 2021 in support of the application. Letter submitted to the file.

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 side yard setback of 7.1' for a deck and 11.3' for a pool where 15' is required as per 300-21 and Appendix A of the Town Zoning Code, and to legalize the existing 2 sections of the 6ft. fence, not the one over the property line. 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.

HILL Property Address: 1440 Old Logging Rd. Section 47.17, Block 1, Lot 27	#35/21	This is an application to allow for an existing wood and a wire deer fence in a front and side yard with a height of 6' to 7'8" where a maximum of 4.5' is allowed. The wood fence also has the decorative side facing inwards where it is required to face out. All per 300-13(f) and Appendix A of the town zoning code. This property is located in a R1-80 Zone.
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Mailing and sign certification in order.

Nate Hill and Allison Montana appeared before the Board.

Mr. Hill said basically we have one corner of our property, the whole place is rural, that at night as cars come driving down Old Logging Road their headlights all shine directly into my daughter's bedroom and out master bedroom. So we wanted to put up privacy fence to keep that from happening. I should add that the dimensions are a little bit misleading because of the grade of the road. In addition to that, we just want to get a deer fence around the whole place to keep the dogs in and the deer out.

Memo from the Assistant Building Inspector dated, September 17, 2021 states:

I have inspected the property on September 15, 2021, and I have no objections in granting relief for the fencing.

Chairman Fine read letters from Suzan Katz, dated September 20, 2021; Jeff Zack, dated September 21, 2021; Paul Grumley, dated September 21, 2021, in opposition of the application.

Mr. Tripodi said is there other way to achieve the privacy.

Mr. Hill said I wish that there were, we have been struggling with this for the 5 years that we have been there.

Chairman Fine said how about some tall evergreens.

Mr. Hill said I planted the same kind of arborvitaes and they got eaten to the ground.

I would just respond to the bit about obscuring the traffic or something like that. It really is not on that side of the corner, I cannot see how it would actually cause any problem for visibility at all.

Chairman Fine read a letter from James Neale, dated September 23, 2021 in opposition of the application.

Mr. Fahey asked are you intending to leave that fence natural or stain it.

Mr. Hill said I would be happy to stain it, would also be happy to take and reverse the sides because of the mistake I made.

Chairman Fine read a letter from Dolores Strebel, dated September 23, 2021 with comments on the variance application.

Ms. Montana said I made a list of the 6ft. opaque wood fence in Huntersville area. I took a quick drive and I was able to find 15 of them in our area. The other piece that is not mentioned on there, since the privacy portion was first built, we have had that neighbor driving by slowly and kind of looking right into where my children play, my children's bedroom, and frankly it just kind of makes me nervous. Although a deer fence would be fine in terms of keeping that out, that little area that you drive around is looking into the area where my children play.

Chairman Fine said what would the extra foot and half get you that the 4.5ft. does not?

Ms. Montana said that extra foot and half would really help with the headlights that come straight in right into our bedrooms.

Mr. Hill said and the visibility of the cars slowly driving by.

Chairman Fine asked is the bedroom windows below the fence or above the fence.

Mr. Hill showed on the survey where the location of the bedrooms are.

Chairman Fine asked how far off the road is the house.

Mr. Hill said pretty far.

The Board discussed with the applicant other type of screenings in order to achieve what they want without having to put up the opaque stockade fence and the location of the fence in relations to the road, and possibility of moving the fence back.

Chairman Fine asked if there is anyone who would like to make a comment on the application.

Paul Grumley came to the podium. He said I sent in one of the letters, so 2 things of observation.

One, I do agree that the headlights would be an issue and when I first saw the fence going up, I thought in fact it was just going to be a finite width, just to block the headlights. When you come down the road the lights really do. When I drive I know my headlights are hitting your house.

Mr. Grumley showed on the survey the location he is referring to. He said when you come down the hill, you really cannot see around the corner if someone is coming up. So that for me at least will be an issue, I do know that it is a sight, if it is a corner lot you would have to have a sight around the corner. I do see both sides of it, but it really is going to block the sight and I do not know that it needs to be quite so big all the way around.

Mr. Gregory asked are you talking about the wood fence.

Mr. Grumley said the wood fence, I do see the desire to have an opaque area there, I do, for the headlights but then if it goes all the way around, well I am assuming, and I do not know.

Mr. Gregory said there are two issues here, one is the wood fence and the other is the balance which is the deer fence.

Mr. Grumley asked where does the wood fence end and the deer fence begins?

Chairman Fine said it seems like most of the letters are concern about the wood fence.

Mr. Hill showed on the survey where the wood fence ends.

Mr. Gregory said to Mr. Grumley, the wooden fence that is out there now, if he said he is not going to add to that, would that be an issue.

Mr. Grumley said if you make it look nice, for me I will change my letter. There were two parts I put, if the deer fence is not opaque the I do not think it is an issue with the sight down the street, if this amount of wood that is there now is the only wood, then I would take that out too.

Mr. Gregory said you do not have an issue with the existing wood fence there.

Mr. Grumley said I have a bit of an issue, but I understand that it is a trade off because I know my headlights are hitting the house.

Mr. Gregory said so that I understand, basically your concern was that he was going to put up an opaque fence around the entire property.

Mr. Grumley said that is what it looked like because the other post look similar.

Mr. Gregory said in other words, if he does not put an opaque fence around the entire property, but has the wood fence where it is and does not increase the size of it or its location, are you okay with that.

Mr. Grumley said I would be okay with that.

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 for an existing wood and a wire deer fence in a front and side yard with a height of 6' to 7'8" where a maximum of 4.5' is allowed. The wood fence also has the decorative side facing inwards where it is required to face out. All per 300-13(f) and Appendix A of the town zoning code with the stipulation that this pertains only to the existing wood fence and that the existing wood fence with has to be turned so the good side is facing out, or the side that is facing out now has to be finished to be either better or identical to the side that is facing into the property, and this pertains only to the requested variance and not the remainder of the property line.

BRAVO #40/21
Property Address: 633 East
Main St.
Section 16.08, Block 1, Lot 9

This an application for a front deck addition with a front yard setback of 27.8' for the main structure and 25.45' for the stairs where a minimum of 40' is required. The applicant is legalizing a garage and shed with setbacks of 5.7' and 2.4' where a minimum of 10' is required. The lot size is 19,595 s.f. where a minimum of 20,000 s.f. is required. All per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-20 zone.

Not open. No mailings.

Recording Secretary, Glenda Daly
Meeting adjourned at 7:44pm
Happy Zoning!