

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS**  
**June 23<sup>rd</sup>, 2022**

The regular monthly meeting was held for the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, June 23<sup>rd</sup>, 2022. The meeting began at 6:30 p.m.

The following members of the board were present:

Robert Fahey  
Gordon Fine  
William Gregory  
Anthony Tripodi

Also present is Kyra Brunner, Legal Secretary, and Steve Fraietta, Assistant Building Inspector.

The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held July 28<sup>th</sup>, 2022, site visits are scheduled for July 23<sup>rd</sup>, 2022. Mailings are to be sent from July 5<sup>th</sup> to July 13<sup>th</sup>, 2022.

**NEW BUSINESS**

**DINEEN-CAREY #33/22** This is an application to renew a special use permit for the Day Care Facility per 300-53 of the Town Zoning Code. Premises is in a R1-20 Zone.  
**Property Address:**  
**2090 Crompond Rd.**  
**Section 37.14, Block 2, Lot 8**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on, 2022, Site Visit on June 18<sup>th</sup>, 2022, and referred to the Building Department.

**LACHTERMAN #34/22** 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:**  
**201 Montross Rd.**  
**Section 48.11, Block 3, Lot 32**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department.

**NELSON #35/22** This is an application for a special use permit to covert an existing garage into an accessory apartment as per section 300-38 of the Town Zoning Code.  
**Property Address:**  
**3481 Wildwood St.**  
**Section 16.16, Block 1, Lot 8**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department.

**PURPURA #36/22** This is an application for a special use permit for a new accessory apartment.  
**Property Address:**  
**3609 Flanders Dr.**  
**Section 17.10, Block 3, Lot 49**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department.

**MARSOCCHI #37/22** This is an application for a special use permit for a farm as per section 300-45 of the Town Zoning Code.  
**Property Address:**  
**1225 Whitehill Rd.**  
**Section 17.10, Block 3, Lot 49**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department, ABACA, Conservation and Planning.

**MARSOCCHI #38/22** This is an application for an accessory structure without a principle structure in a R1-40 zone as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**1225 Whitehill Rd.**  
**Section 17.10, Block 3, Lot 49**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department.

**ELEZAJ #39/22** This is an application to legalize three (3) accessory apartments in a single family home with an existing non-conforming cottage making the total of four (4) dwelling units in a single family district.  
**Property Address:**  
**1658 Amazon Rd.**  
**Section 25.12, Block 2, Lot 32**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department.

**ELEZAJ #40/22** This is an application to allow two (2) primary structures on a lot where one (1) is permitted as per section 300-21C(1)(a)[1], to allow a combined floor area of 3 accessory apartments of 1835 square feet where 800 square feet accessory apartment is permitted as per section 300-38B(5), to allow usage of property that is not owner occupied as per section 300-38B(8), and to allow four (4) accessory apartments where one (1) is permitted in a R1-40 zone as per section 300-38B(9).  
**Property Address:**  
**1658 Amazon Rd.**  
**Section 25.12, Block 2, Lot 32**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>,

2022, and referred to the Building Department and Planning.

**YANCOPOULOS #41/22** This is an application for an addition with a side yard setback of 4' where 30' is required as per section 300-21 and Appendix A of the Town Zoning Code. This property is pre-existing non-conforming.  
**Property Address:**  
**1370 Baptists Church Rd.**  
**Section 47.10, Block 1, Lot 6**

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item was scheduled for a Public Hearing on July 28<sup>th</sup>, 2022, Site Visit on July 23<sup>rd</sup>, 2022, and referred to the Building Department.

### **CONTINUED PUBLIC HEARINGS**

**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, and Tripodi, this item is adjourned as requested.

**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, and Tripodi, this item is adjourned as requested.

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

Not opened. Board request letter to be sent to the Building Department for follow up.

**ELIAZER #14/22** This is an application to legalize a 6' high fence in two side yards where a maximum of 4.5' is permitted as per 300-13F of the Town Zoning Code.  
**Property Address:**  
**3761 Chesterfield Dr.**  
**Section 15.08, Block 2, Lot 70**

Mailings and sign certification in order.

Machiavelly Eliazer present for the meeting.

Mr. Eliazer said we installed a fence, we were unaware that a 6ft. fence has to be 6ft. back from the front of the house. We installed the fence for my daughter, she has autism and it is very dangerous on that street, she likes to run out in the street. It was a safety issued that is why we installed it.

Chairman Fine asked it is all around the perimeter at the bank of the property.

Mr. Eliazer said it is just in the front.

Chairman Fine said just in the front, nothing on the sides.

Mr. Eliazer said not much, about 10ft. on the sides.  
Memo from the Assistant Building Inspector, dated April 21, 2022 states:  
I have inspected this property on April 20, 2022 and found no apparent violations.  
I have no objections to granting relief for requested variance.

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, and Tripodi, the application for a variance was granted to legalize a 6' high fence in two side yards where a maximum of 4.5' is permitted as per 300-13F of the Town Zoning Code. With the stipulation it pertains only to the requested variance and not the remainder of the property line.

**GENAO #21/22** This is an application to allow construction of a front porch with a front yard setback of 23' where 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:**  
**3197 Parmly Ct.**  
**Section 25.07, Block 1, Lot 23**

Mailings and sign certification in order.  
Marcia Lopez, representing the applicant.  
Ms. Lopez said my client want to extend the gable, going toward the front porch removing the metal flat roof that they have.

Memo from the Assistant Building Inspector, dated April 21, 2022 states:  
I have inspected this property on April 20, 2022 and there were no apparent violations. I have no objections to granting relief for requested variance. The applicant will need a building permit and certificate of occupancy for this project.

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, and Tripodi, the application for a variance was granted to allow construction of a front porch with a front yard setback of 23' where 30' 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.

**CLIFFORD #22/22** This is an application to allow the sub-division of an existing single-family lot into two nonconforming lots. One fronting on Central Street and one fronting on Summit Street.  
**Property Address:**  
**1625 Central St.**  
**Section 48.07, Block 2, Lot 28**

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

**WALLACK FAMILY LTD #23/22** This is an application to allow construction of a new barn (accessory building) with a height of 30'2" where 15' is allowed as per 300-21 and Appendix A of the Town Zoning Code. This property is located in a R1-40/R-160 zone.  
**Property Address:**  
**1549 Jacob Rd.**  
**Section 36.13, Block 1, Lot 14**

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

## NEW PUBLIC HEARING

**RODRIGUEZ**                      **#28/22**    This is an application for a special use permit for a new accessory  
**Property Address:**                      apartment.  
**898 Parkway Pl.**  
**Section 16.11, Block 1, Lot 26**

Mailings and sign certification in order.

Gabrielle Salman, Architect, representing the applicant.

Ms. Salman said we are seeking special permit to create accessory apartment in the basement, ground level.

Chairman Fine said you applied to create the apartment, is it to build the apartment or for the permit.

Ms. Salmon said we applied for the permit.

Chairman Fine asked how much square footage is the entire house.

Ms. Salman said the entire basement we are building is 1300 sq.ft.

Chairman Fine said what is the whole house.

Ms. Salmon said I think it is 3900sq.ft with the basement.

Chairman Fine said where do you have parking set up for the basement.

Ms. Salman said there is one parking spot in the garage, and three outside.

Chairman Fine asked where is the main entrance?

Ms. Salman said from the rear.

Mem from the Assistant Building Inspector, dated June 21, 2022 states:

Upon review of the plans the applicants the applicant will require a variance for the accessory apartment for floor area of 1350 square feet where 800 square feet is maximum allowed as per 300-38B(5).

I have inspected this property on June 21, 2022 and found no apparent violations. I have no objections to granting a special permit. This applicant will require a building permit and certificate of occupancy.

Chairman Fine said what is the reason why you are going over by about 500sq.ft.

Ms. Salman said originally when we talked to building department, they say there was no limitation. So that is why we went with that. Entire basement is open to outside.

Chairman Fine said besides the permit, this means you also need a variance.

Ms. Salman said correct.

Chairman Fine said but we are not noticed for a variance, only notice for a permit. I think we may have to re-notice it for the variance too.

Steve Fraietta, Assistant Building Inspector, said this application did not come to us first, this went right to file for special permit. Really this type of application, it is a new apartment, should have come to us first.

Chairman Fine said yes, it has to be denied in order to get a variance.

Mr. Fraietta said right so I can give the denial, that is why I wrote it that way because they really need to apply for a building permit first so I can deny it and get it to you.

Chairman Fine told Ms. Salman that is the legal procedure, before you can get a variance the building department have to deny the request, but since you did not go to the building department first they could not deny your request.

Ms. Salman said well we went to the building department first with the package, we were sent upstairs to zoning, it was not very clear, but we will do what is required.

Chairman Fine said you will have to re-notice for the variance as well.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, this item is adjourned so the applicant can re-notice for the variance.

**SANSONE** #29/22 This is an application to allow an accessory structure with a height of 19'6" where 15' is permitted and for a front yard setback of a corner lot of 24' where 40' is required as per 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**69 Sheila Ct.**  
**Section 17.14, Block 3, Lot 1**

Mailings and sign certification in order.

Sam Sansone present. He said we are looking to get a two-car garage, it is 24X24 feet, the actual height of it is 18ft. 6inches, it is on a corner lot like you said, on the side of the house towards the back. The setback is only going to be 24ft.

Chairman Fine said what is the basis for the height, the need for extra height.

Mr. Sansone said there is going to be a storage room above it.

Mr. Fahey asked what is the height of the interior of the storage room.

Mr. Sansone said I believe it is 8ft. at the center of it, it is dormers it is not fully 8ft.

Chairman Fine said we had a question whether or not it is a front yard setback or side yard setback.

Mr. Sansone said from what I was being told, it has to be 40ft. on the front and the side.

Mr. Gregory said that is correct, it is an R1-20 zone, so the way the house is basically laid out, the yard on Poplar Street is the front yard because the rear yard which is directly opposite has to be 40ft. as well, and that show it is 36ft. The side yard equal to a front yard on a corner lot, I know it confuses the heck out of people all the time, needs to be equal in distance to what is required in the front yard, but it is still call the side yard. You still have one front yard, one rear yard two side yards. So you got one side equal in distance to a front yard of 41ft. that is the one on Sheila, the other thing we are going to have to add thou to this if the Board is incline to grant it is that the location of the structure, because you are in a side yard with it in essence. You are in a front yard and a side yard with this structure. Basically the setback from the property line has to be 15ft. not 10ft. So we are going to have to add that to the variance if the Board is inclined to do so.

Chairman Fine said what are we doing with the front yard of 24ft. where 40ft. is required.

Mr. Gregory said front yard of 24ft. where 40ft. is required, and then a side yard of 10ft. where 15ft. is required.

Memo from the Assistant Building Inspector, dated June 21, 2022 states:

I have inspected this property on June 16, 2022 and found no apparent violations. I have no objection granting relief for requested variances. The applicant will need a building permit and certificate of occupancy for this project.

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, and Tripodi, the application for a variance was granted to allow an accessory structure with a height of 19'6" where 15' is permitted and for a front yard setback of a corner lot of 24' where 40' is required, and for a side yard of 10' where 15' is required as per 300-21 and Appendix A of the Town Zoning Code. With the stipulation this 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.

**CHANG** #30/22 This is an application for a renewal of a special use permit for an accessory apartment.  
**Property Address:**  
**1480 Inspiration Rd.**

**Section 16.17, Block 4, Lot 15**

Mailings and sign certification in order.

Cathy Chang present. She said just need to renew the application.

Memo from the Assistant Building Inspector, dated June 21, 2022 states:

I inspected this property on June 21, 2022 and found no violations. I have no objections to granting a renewal for a special use permit.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Fahey, Fine, Gregory, and Tripodi, the application for renewal of a special use permit was granted for a period of three (3) years.

**LONG #31/22** This is an application to allow the reconstruction and enlargement of an existing deck to legal non-forming structure as per section 300-173 of the Town Zoning Code.  
**Property Address:**  
**1680 Mogul Dr.**  
**Section 25.12, Block 2, Lot 81**

Mailings and sign certification in order.

Lorraine Long present.

Chairman Fine asked what happened to the old deck?

Ms. Long said after 35 years it is time to replace.

Chairman Fine asked what was the size of the old deck?

Ms. Long said I honestly do not know.

Chairman Fine asked how much bigger are you making the new deck?

Ms. Long said it is going 2ft. further out, and 6ft on one side, and 6ft. on the other side.

Mr. Fahey said so you are going 6ft. closer to your neighbor, is that what you are saying.

Ms. Long said yeah.

Letter from Nicole Van Elm, Director of Mogul Park, dated April 28, 2022 states:

Please note this was presented and unanimously approved at our most recent Board of Director's meeting also held at the evening of April 21, 2022. Please note there were no objections from the immediate neighboring shareholders.

Memo from the Assistant Building Inspector, dated June 21, 2022 states:

I have inspected this property on June 16, 2022 and found no apparent violations. I have no objection granting relief for requested variance. The applicant will need a building permit and certificate of occupancy for this project.

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, and Tripodi, the application for a variance was granted to allow the reconstruction and enlargement of an existing deck to legal non-forming structure as per section 300-173 of the Town Zoning Code. With the stipulation it pertains only to the requested variance and not the remainder of the property line, and it be built in substantial conformity to the plans submitted.

**KIPPERMAN #32/22** This is an application for a deck with a side yard setback of 8' where 10' is required as per section 300-21 and Appendix A of the Town Zoning Code.  
**Property Address:**  
**3221 N. Deerfield Ave.**  
**Section 16.120, Block 1, Lot 44**

Mailings and sign certification.

Jen Kipperman present.

Chairman Fine asked is this an existing deck?

Ms. Kipperman said yes, it has been there since 1970 and so time for replacement.

Chairman Fine said so you are replacing a deck and making it slightly bigger.

Ms. Kipperman said we are replacing it and bumping it just a little to fit my husband grill and my raise garden bed.

Memo from the Assistant Building Inspector, dated June 21, 2022.

I have inspected this property on June 16, 2022 and found no apparent violations. I have no objection granting relief for requested variance. The applicant will need a building permit and certificate of occupancy for this project.

Mr. Gregory said this deck that you are putting on is basically on the side of the house.

Mr. Gregory told Mr. Fraietta is there a reason why is should not be 15ft., deck are accessory structures, you can go to 10ft. as long as it is in the rear yard, for an accessory structure in a side yard it got to meet the setback. So lets do where 15ft. 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, and Tripodi, the application for a variance was granted for a deck with a side yard setback of 8' where 15' is required as per section 300-21 and Appendix A of the Town Zoning Code. With the stipulation this pertains only to the requested variance and not the remainder of the property line, and the deck be built in substantial conformity to the plans submitted.

Recording Secretary, Glenda Daly

Meeting adjourned at 7:06pm

Happy Zoning!