

FOR 7/24/14 ZBA MEETING

DRAFT

TOWN OF YORKTOWN

ZONING BOARD OF APPEALS DETERMINATION

French and Gironda Appeal No. 4/14

Application by Albert French and Linda Gironda (“Appellants”) for an interpretation of the Zoning Code pursuant to an appeal dated February 10, 2014 as it relates to a determination of the Building Inspector dated January 16, 2014¹ pertaining to 482 Underhill Avenue, Yorktown Heights, New York (“Premises”)(“Appeal”). The Appellants are the owners of residences located at 1770 French Hill Road (French) and 1956 Glen Rock (Gironda) in Yorktown Heights. The Premises are owned or are to be owned and operated Tom McCrossan and Mark McGoldrick (“Owners”).

The Premises are located in the R1-40 zoning district, consist of approximately three acres and are improved with a main residence consisting of approximately 8500 square feet and two smaller residences that are situated on the same lot that collectively contain a total of 10 bedrooms (all constructed prior to enactment of the Yorktown Zoning Code in 1932). The main residence was formerly used as a boarding home/school for up to 26 mentally challenged children. In the early 1970s, the original single-family use was restored and has continued to this date.

The duly advertised public hearing for the Appeal was first held at the regular March 2014 meeting of the Zoning Board of Appeals (“Board”) on March 27, 2014. At the public hearing the Board received written materials and oral testimony both in support of and in opposition to the Appeal and thereafter continued the public hearing on April 24, 2014 and May 22, 2014. At the May 22, 2014 meeting the Board

¹ It is noted that an identical copy of the determination was inadvertently dated December 9, 2013. The Building Inspector noted at the public hearing that the earlier date appeared in error and that the two memos were identical.

voted unanimously to close the public hearing. The Appellants were represented by Attorney Michael Sirignano and the Owners were represented by Attorneys Albert Capellini and Robert Davis. Thereafter the Board conducted its deliberations on the Appeal at the June 26, 2014 meeting. Based on all of the foregoing, the Board finds and determines as follows:

I. BACKGROUND

The Owners have applied to the Town Board for a special use permit to operate a “convalescent home” at 482 Underhill Avenue in Yorktown Heights. The Owners describe the proposed use of the Premises as a sober living residence called Compass Westchester that will provide housing for persons recovering from substance use disorder where they can live and support one another in abstinence.

No chemical dependent services or other medical services are to be provided at the Premises and each resident will receive treatment at other unaffiliated community service providers who are not situated at the Premises. The proposed residence is not subject to the requirement of an operating certificate either as a hospital or a nursing home under Article 28 of the New York Public Health Law or regulations promulgated by the New York State Office of Alcoholism and Substance Abuse Services [see correspondence from Margaret J. Davino, Esq. to Albert A. Capellini, Esq. dated April 22, 2014].

According to the record, the proposed use is residential, providing lodging for people who have been through rehabilitation elsewhere, who are sober and are residing together for group reinforcement to enable them to continue on the path of sobriety. Residents will be required to follow a prescribed daily routine and house rules and it is estimated that each residents’ stay will be approximately 30 to 60 days, depending on individual needs. The average number of residents residing at the Premises will likely be 8, but based on Compass Westchester’s special permit application currently under review by the Town Board,

