

Village of Croton on Hudson  
Meeting of the Planning Board  
Tuesday, June 10, 2014

**PRESENT:** Robert Luntz, Chairman  
Rocco Mastronardi (arrived 8:10)  
Bruce Kauderer  
Steven Krisky  
Richard Olver

**ALSO PRESENT:** Daniel O'Connor, Village Engineer

1. Chairman Luntz called the meeting to order at 8:05p.m.

**2. PUBLIC HEARING**

*a) Michael Ferruzza--33-35 N. Riverside Avenue (Sec.78.08 Blk 3 Lot 72)—  
Application for Amended Site Plan approval for installation of awnings and  
façade change to storefront.*

Mr. Kauderer made a motion to open the public hearing, seconded by Mr. Krisky, and carried all in favor, 4-0 (Mr. Mastronardi had not yet arrived).

Mr. Michael Ferruzza summarized his application to upgrade the façade of the building at 33-35 N. Riverside Avenue. He is adding an awning at the corner of the building, extending the step to the front of the door, and doing some interior work in the stores. In addition to his kitchen cabinet store and the comic book store, there will be dog-grooming store going into the rear space of the remaining empty store. The Village Engineer confirmed that the dog grooming use is appropriate in a C-1 zone.

Mr. Ferruzza discussed the type fonts he would like to use for the awnings for the stores. Chairman Luntz stated the application had to go to the VEB and only after the Planning Board receives the VEB's recommendation could the Planning Board act on the application (most likely on June 24<sup>th</sup>).

Chairman Luntz also suggested that the applicant try to get a more detailed rendering of the awning in addition to bringing the color and material samples to the VEB.

As there were no comments from the public, Mr. Olver made a motion to close the public hearing, seconded by Mr. Krisky, and the public hearing was closed all in favor 5-0.

**3. OLD BUSINESS**

*a) Steel Style Properties, LLC – 50 Half Moon Bay Drive (Sec. 78.16 Blk 1 Lot 3) – Request for extension of Amended Site Plan approval.*

Chairman Luntz looked at the photograph, taken by the Village Engineer, of the site. The Planning Board noted that the site appeared to be cleaned up and the grass cut.

Chairman Luntz noted that the Planning Board received a letter from Peter Drexler, resident of Half Moon Bay, but that there was no new information that the Board had not already reviewed. Mr. Kauderer agreed.

The Board reviewed the conditions: (see attached resolution)

1. Date of completion:

Mr. Plotkin responded that July was more than adequate, and he would be able to complete the construction of the house. He was aware of and agreed to condition 1.

2. Vehicles at the village-owned parking lot (blackout dates):

Mr. Olver suggested that there be more clarification on what vehicles they were speaking about, so the condition is to read vehicles "associated with the construction."

3. No site work and use of heavy machinery during blackout dates:

Mr. Plotkin stated that he would have enough time, with the black out times, to complete the house.

Chairman Luntz reiterated that this was the third and final extension; if Mr. Plotkin were to come back to the PB, it would have to be for a new application. The Planning Board members all agreed.

Mr. Krisky, stated for the record, that he could not in good conscience support the extension. He understood that this was a legal lot, but nobody wants a home built on it and he does not feel the Planning Board should bend over backwards to give a third extension.

Mr. Mastronardi stated he was seriously thinking about voting against a third extension. His experience with developers and Planning Boards has been that when an application is controversial, the applicant has their affairs in order right away, and that did not appear to be case here. Given what he had researched (he was not on the Board at that time) this was a controversial approval contemplated by the Board, and from his point of view, under those circumstances, everything should have been ready to go,

Mr. Kauderer stated that, with all due respect, although this was a controversial application, he did not see any prejudice about granting a third extension since the Planning Board had already granted two other extensions. He did not think it was unreasonable to grant another one given that if there were no extension granted, Mr. Plotkin would come back with the same application. If nothing has changed, except the members of the Board, it would be arbitrary and capricious to deny approval given the Board's previous approval. The Board would be subject to an

Article 78. Mr. Kauderer expressed his hope that the construction would move forward.

Mr. Olver asked the Village Engineer about the practice of granting extensions for Amended Site Plan approvals.

The Village Engineer explained that this is the Waterfront Development District and this zoning district is the only district in which site plan approval is only good for one year. When Discovery Cove was being built there had been two extensions. There have been other applications (e.g., Done Deal) in which a number of extensions had been requested. In any other district, an amended site plan approval is valid for three years; yet for some reason the code only allows one year in the Waterfront Development District.

Mr. Mastronardi suggested that maybe there was a good reason why it was that way. The Village Engineer responded there was not way of knowing what the reason was.

Mr. Olver stated that he was only indirectly aware of the controversy regarding this application and understanding that there was a constrained time frame, given the blackout times, it seemed reasonable to him to request an extension and he saw no reason not to grant it.

Chairman Luntz stated that he was in favor of granting the extension, that the application was approved and it would be difficult to overturn the Board's position.

A member of the audience asked if he could speak. Chairman Luntz stated that although this agenda item was not open as a public hearing, the Board traditionally allowed brief comment from the public.

Mr. Richard Zumbach, resident of HMB, urged the board not to approve this extension. He believed he represented the residents of Croton when he stated that this development will deteriorate the waterfront and it would not benefit the village.

Mr. Krisky stated that just for the record Mr. Plotkin had represented to the Planning Board that he would be moving in but now he had change his intent and the lot is for sale. Mr. Kauderer stated that it doesn't matter who lives in the house, it is the house that is the main issue.

Mr. Kauderer made the motion that the resolution granting an extension be approved, seconded by Mr. Olver and voted in favor by a vote of 3-2 ((Mr. Krisky and Mr. Mastronardi voted against for the reasons stated above).

#### **4. REFERRAL**

*a) Village Board referral—Zoning Code amendment language regarding fences, walls, and attached structures (continued discussion).*

An invitation had been extended to the Zoning Board for members to attend a Planning Board meeting to discuss the Zoning Board's perspective on fences and accessory structures. Ms. Rhoda Stephens of the Zoning Board attended and participated in the discussion of the issues related to fences. She explained that over the years the guidelines from the Zoning Board were not defined enough and there have been frequent requests for variances. There have been problems with issues such as retaining walls, the height of fences, gaps in fences, berms, and whether retaining walls should be part of the fence.

Chairman Luntz stated that the Planning Board does not very often review fences, but the Board had touched on some of the issues at the last meeting. The Board had some concern that the rules that were appropriate for some parts of the village were not appropriate for other parts of the village. For example, if one lived at a corner and saw bright car headlights all night, it might be important to have a six foot high fence in the front of your property; however, if a fence is in the village without extenuating circumstances, and has a six foot high fence around it, it might visually be unappealing.

There was also a discussion about the height of fences and their effectiveness on deer; homeowners who built retaining walls or fences in the village street right of way and fences on steep slopes.

The Planning Board agreed that it was difficult coming up with a code where one size fits all. The Zoning Board has the legal authority at the state level. Mr. Mastronardi suggested looking at other village's codes, although the Village Engineer pointed out that often other village codes seem to focus on specific cases that are unique to that village.

Mr. Kauderer stated that after giving the matter a great deal of thought, it seemed to him that there were two basic issues: 1) the village does not want spite fences and therefore it made sense to have height limitations e.g. six ft from the level or natural grade, and 2) the bad side of the fence should face in, the good side facing the neighbor's side. When it came to the aesthetic issues of fences—plastic, or chain link, he did not think it was for a Board to say. Mr. Kauderer stated that he believes a homeowner has the right to privacy. Mr. Krisky stated that he believed the code could address aesthetic issues in order to preserve property values and maintain visual aesthetics. Mr. Kauderer responded that when one talks about aesthetics, opinions vary.

Mr. Olver acknowledged the difficulty in giving an opinion, but felt the board agreed on one issue-- that post facto approval should be unacceptable; the Planning Board does not support building something without the necessary approvals.

Chairman Luntz pointed out that there are always exceptions and sometimes there needs to be decisions made on a case by case basis such as when fencing provides the only privacy, or when deer fences are necessary.

Mr.Kauderer stated that he was very much against spite fences and therefore may have to go with the six-foot rule, and leave everything else to a variance. For example, if someone needs deer protection, then some consideration should be given to a higher fence but he did not think the Planning Board should go with all the exceptions. He suggested keeping it simple: no higher than six feet from natural grade and the good side of the fence facing out.

The Village Engineer noted that the zoning standards set the perimeters and a resident cannot do anything he wants to do in the front yard.

Mr. Olver questioned why the village is treated as one zone when it comes to fencing. There are the downtown areas, the more densely suburban areas (Harmon), and the less densely populated areas in the village. His suggestion would be to have three zones with different rules for fences in each zone.

The Village Engineer stated that the Village Board is entertaining legislation and having received recommendations from the VEB, and the ZBA, they now would like Planning Board input. The Planning Board can offer global statements or get into greater details, whatever the board decides. Mr. Krisky suggested making global suggestions where less is more.

Mr. Mastronardi offered to look at the draft law for more detailed recommendations for changes and will send to the rest of the Board to review.

Chairman Luntz and the Planning Board expressed appreciated to Ms. Stephens for her input.

## **5. APPROVAL OF MINUTES**

Mr. Mastronardi made a motion to accept the minutes of May 27, 2014, as amended, seconded by Mr. Krisky, and carried by a vote of 5-0.

## **6. ADJOURNMENT**

Mr. Olver announced that regrettably in a month he was submitting his resignation from the Planning Board since he will be moving out of the village.

There being no more business to come before the board, the Meeting was duly adjourned 9:35P.M.

Respectfully submitted,

*Ronnie L. Rose*

Ronnie L. Rose  
Planning Board Secretary

## RESOLUTION

**WHEREAS**, the Planning Board approved an Amended Site Plan application on April 24, 2012 for a property located at 50 Half Moon Bay Drive, in the Waterfront Development District, which is designated on the Tax Map of the Village as Section 78.16 Block 1 Lot 3; and

**WHEREAS**, this approval had required that the construction start before April 24, 2013, and that the development be completed within three years of the approval or by April 24, 2015; and

**WHEREAS**, the applicant was unable to start construction before this date and had requested an extension of the date of the start of construction from April 24, 2013 until December 31, 2013; and

**WHEREAS**, on February 12, 2013, the Planning Board granted an extension of the start date of construction, with conditions, until December 31, 2013; and

**WHEREAS**, the applicant requested a second extension of the date of the start of construction from December 31, 2013 until June 30, 2014;

**WHEREAS**, on October 8, 2013, the Planning Board granted a second extension of the start date of construction, with conditions, until June 30, 2014; and

**WHEREAS**, as written on a letter dated May 20, 2014, the applicant has requested a third extension of site plan approval for a period of six months beyond June 30, 2014 until December 31, 2014; and

**WHEREAS**, the Planning Board in its approval of the site development plan, may permit or require that such development be phased over a number of years and may direct the chronological order of development; and

**THEREFORE**, the Planning Board grants the request from the Applicant to extend the date of the start of construction from June 30, 2014, until December 31, 2014 subject to the following conditions:

1. That, the date for the completion of construction is extended three months from the original completion date of April 24, 2015 to July 24, 2015.
2. That, the use of the village-owned parking lot on Elliot Way next to the Half Moon Bay marina is limited during construction to no more than four vehicles associated with the construction Monday-Friday, during the time period between June 15, 2014 and Labor Day, 2014 and that the use of the same village-owned parking lot during construction is limited to no more than two vehicles on the weekends during the time period between June 15 and Labor Day, 2014, and that the use of the same village-owned parking lot is subject to the original resolution granting that no more than six vehicles be allowed to park in the lot any other time not specified during the construction of the house.
3. That, no site work and use of heavy machinery shall be engaged in during the period of June 15, 2014 and Labor Day, 2014.

The Planning Board of the  
Village of Croton-on-Hudson, New York

Robert Luntz, Chairperson  
Bruce Kauderer  
Steven Krisky  
Rocco Mastronardi  
Richard Olver

Motion to approve by Mr. Kauderer, seconded by Mr. Olver and carried in favor by a vote of 3 to 2 (Mr. Krisky and Mr. Mastronardi voted against granting the extension).

The resolution, as amended, was approved at the Planning Board meeting held on Tuesday, June 10, 2014.