

VILLAGE OF CROTON-ON-HUDSON, NEW YORK
ZONING BOARD OF APPEALS MEETING MINUTES OF JULY 10 2002

MEMBERS PRESENT: Donald Sapir, Chairman
Rhoda Stephens
Ruth Waitkins
Paul Rolnick
Tom Szoboszlai

The meeting came to order at 8:00 P.M.

HEARINGS:

Dominick Mamone, 41 Old Post Road. Section 67.20 Block 2 Lot 20. Located in a RA-5 District. Request for an amendment of condition #1 of variance granted on 2/11/98 and request for a determination with respect to a proposed addition and two-car garage.

Philip Tully, P.E., 4 Eklof Court, represented Mr. Mamone who was not present due to the death of his mother.

Mr. Tully - We requested an interpretation as to whether a variance is needed. I think it is clear that no variance is required. I cite 230-53 (c) of the Zoning Regulations on page 23086.

Sapir - What is your position with respect to an amendment of the previous condition?

Tully - We cannot comply, because of the new structure. Accommodations would need to be made to accommodate the new structure, such as no landscaping.

Sapir - Is your plan to increase the size of the driveway?

Tully - Probably. We will not go within the 20 ft. buffer zone required by the Water Control Commission. That cannot be violated.

Sapir - You asked to be relieved of the planting of the evergreens. Correct?

Tully - That would be a first choice. We cannot adhere to the footprint, because of the new structure. The only person that objects is the Fagan's and I am sure that you saw for yourself what the view is. The Cunninhams that are right next-door have no objections.

Sapir - Does your client have intentions of screening on the Fagan's side?

Tully – What would prohibit it, is cost.

Stephens - Are the garages exactly the same size?

Tully - 24 ft. x 24 ft.

Sapir - The new garage will not require a variance because it is not increasing the degree of non-conformity. Will it be against the wall?

Tully - No. It will be 5 ft. from the property line as required.

Sapir – Are you doing that so it will not require a variance?

Tully - Yes and because it extends beyond a stone masonry wall, that we do not want to tamper with. We do not want to jeopardize the stonewall.

Rolnick - The new garage will be slightly in front of the old garage?

Tully - Yes by 1 ft. 6 in.

Szoboszlai - Where are the evergreens that the Board previously requested?

Tully - They were to screen the retaining wall. With the new addition you will not be able to see the retaining wall at all. It will be screened by the existing building and the new one. Screening does not serve any useful purpose.

Rolnick - The new garage will be integrated with the existing garage? Will the siding be the same design?

Tully - The existing garage runs east to west and it will meet ninety degrees. It will match the existing garage.

Sapir - Are there any other questions?

Tully - I think you should give the screening some thought. The intent might be good, but not the reality.

Sapir – Anyone else like to be heard?

Mary Fagan – Old Post Road North – I suggest the planting of the trees be done before any permit is granted for the garage and be planted close to the Mamone and Fagan property line.

Sapir - Any suggestions on the kind of trees that should be planted?

Fagan - Evergreens to provide screening.

Rolnick – Where on your property are you most visually impacted by this garage?

Fagan - The whole thing.

Rolnick - From inside your house on the first floor, second floor, etc.

Fagan - Both.

Szoboszlai - Where do you suggest the trees be placed?

Fagan - Along the property line that separates the two properties.

Sapir - Along the hillside?

Fagan - That would be great.

Discussion followed over property lines

Szoboszlai a- The garage is on the other side of the stream from your property?

Fagan - Correct.

Waitkins - On the other side of the stream, wouldn't that be hiding it more from your property than putting evergreens by the garage? If they are planted by the garage they would never grow.

Marilyn Kelly - Old Post Road North - I share a boundary with Mr. Mamone.

Mrs. Kelly to Mr. Tully - Did you say it will be five to eight feet to the existing garage?

Tully - No. I said it will be five feet from the property line, according to the Zoning Regulations.

Kelly - Why can't the new garage be built in alignment with the existing garage?

Tully - Because, it needs to be five feet from the property line in order to meet zoning regulations and we do not want to jeopardize the stone wall.

Kelly - I can see the existing garage and large area in front of it from any place in my yard. My concern is a four bay garage and it will have cement in the front of it and I can see it from any place in my yard. It is a very commercial look. I am concerned about my property value. I suggest six foot evergreens be planted in the cement area in front of the garage.

Sapir - Is your house raised as the Fagan house Is?

Kelly - No. My house is lower than the Fagan house.

Szoboszlai - The evergreens, you want them between the garage and the stream, along the concrete pad in front of the garage?

Kelly - Yes.

Rolnick - You are proposing that and not on the property line as the Fagan's requested?

Kelly - I do not know. That may not be sufficient for the Fagan's, so maybe screening in both places would be desirable.

Rolnick - So the Fagan screening would be less desirable to you?

Kelly - To plant on their property line that abuts the Mamone property would be a good screening for them, probably. The pad has a very commercial look as well as four bays.

Tully - One reason the meeting was adjourned was the view of the Fagan property. Did you all view it?

The Board Members stated that they did conduct a site visit.

Tully - So, you then know where the screening will be needed?

Tully - I do believe the Water Control Commission allows screening in the 20 ft. buffer zone.

Sapir - It will also make it more attractive from the road.

Tully - I also think planting up on the hillside makes a lot of sense.

Szoboszlai - What is causing the new structure not to line up with the existing structure is the need to meet the five-foot setback requirement of the Code.

Tully - Correct.

Szoboszlai -and it is a little closer to the stream as a result?

Tully - Yes and we don't want to jeopardize the stonewall.

Szoboszlai - How far back can you go back without jeopardizing the stonewall?

Tully - We went back as far as prudent. The portion of the retaining wall will be behind the structure.

Szoboszlai - I was wondering if it would be possible to move back.

Tully - No, not at all.

Sapir - Anyone else like to be heard?

There was no reply.

Hearing closed.

Sapir - Made Motion to **grant** a determination that no variance is required for the proposed garage. The applicant is further **granted relief of condition number one (1) of the Resolution that was granted on 2/11/98 and**

Motion is further made to deny in part based on the following condition imposed by this Board: (conditions can be found on the attached resolution dated 7/10/02)

Rolnick – Second the Motion with conditions

Vote: 5-0 In favor Sapir, Rolnick, Stephens, Waitkins, Szoboszlai

Raymond D’Alvia/General Splice, Niles Road & Route 129. Section 68.14 Block 5 Lot 4. Request for an extension of a special use permit granted on `12/14/94.

Raymond D’Alvia - This is an application for a Special Use Permit ,that has been granted five times in the past. The business is in a residential Zone. Prior to this business, it was a plating plant for forty years and a non-conforming use. The applicant has a mail order business that manufactures and assembles parts. Nothing is being constructed, it has been there for over thirty years and there have been no changes. The owner is now asking for the same variance to be extended for at least five or ten years.

Rolnick - Can you tell us more specifically, what this business is?

D’Alvia - Mail orders. I do not know what they are. It has changed over the years. Nothing is being done outside the building.

Rolnick - You do not know the products?

D’Alvia - He gets things delivered and he re-assembles and sends them out.

Szoboszlai - The last special permit was granted on December of 1994 and it has expired?

D’Alvia - Yes. He was not aware that it had expired.

Sapir - Does anyone reside on the premises?

D’Alvia - No.

Sapir - How many people work there?

D'Alvia - Three, plus himself.

Rolnick - What are the hours?

D'Alvia - 9:00 A.M. to 6:00 P.M. Monday thru Friday.

Sapir - By mail order, you mean all business is done through the mail. No people coming except for the post office, etc?

D'Alvia - It is my understanding that he picks his mail up at the post office.

Sapir - Are there any other questions?

Sapir - Who is the owner?

D'Alvia - Ralph Milano, General Splice Corp.

Szoboszlai - Without knowing what the use is, I do not know if we can do anything. The Code specifically requires the use.

Rolnick - Would Mr. Milano be able to come here now and describe the use to us?

D'Alvia - He is not well. But, I can call him.

Sapir - Anyone else here tonight that would like to be heard?

There was no reply.

The Board agreed to adjourn the hearing until later in the evening in order to give the applicant's representative time to contact the applicant for the necessary information. The hearing will then re-convene later this evening.

John Nickitopoulos, 14 Park Trail. Section 68.17 Block 1 Lot 21. Request for a front yard, side yard, and rear yard variance and area variance with respect to a proposed addition and two-car garage. (Adjourned on 6/12/02 to be re-noticed to include request for area variance.)

Nickitopoulos – I was here last month, but we did not include a request for an area variance. The Board adjourned in order for it to be re-noticed. I need 25,000 Sq. feet. I have 15,000 ft.

Sapir - When was the structure built?

Nickitopoulos – Back in the 1930's.

Rolnick - Is there a lot size on the plan?

Nickitopoulos - I have a survey.

Discussion followed over the survey.

Sapir - Are there any other questions?

There was no reply.

Hearing Closed.

Sapir – Made Motion to grant an area variance of 10,000 sq. ft. in order to comply with RA-25 Zoning Regulations.

Rolnick – Second the Motion

Vote – 3 – In favor – Sapir, Rolnick, Szoboszlai
2 – Abstained – Waitkins, Stephens

**The Board Re-Opened Hearing Re: Raymond D'Alvia/General Splice
Niles Road & Route 129.
Section 68.14 Block 5 Lot 4**

D'Alvia – My client puts together conveyor belt fasteners and other small things, but basically conveyor belts.

Sapir - Are there any other questions?

There was no reply.

Hearing Closed.

Sapir - Motion to grant an extension of a Special use permit for a period of five years with the following conditions:

1. On the basis that the previous Special Use Permit expired on 1999, this Special Use Permit shall expire on December 31, 2004.
2. Use is for mail order business only.
3. No expansions are permitted
4. The hours of business will be 9:00 A.M. to 5:00 P.M., Monday thru Friday.
5. No more than four persons employed as represented by the applicant.
6. The approved use is solely for the manufacturing and assembly of conveyor belt fasteners.

Rolnick – Second the Motion

Vote: 5-0 All In Favor - Sapir, Rolnick, Stephens, Waitkins, Szoboszlai

John Spring, 19 Observatory Drive. Section 79.09 Block 7 Lot 42. Located in a RA-9 District. Request for determination/variance with respect to a proposed two-story addition (Adj. on 6/12/02).

Maria Modica Snow, 109 Grand Street, Attorney representing the applicant. The applicant was here last month for determination. I do not believe a variance is required. Mr. Tully, P.E., has the same situation with the “Mamone” application that is before you this evening and we can apply the same Zoning Law 250-53 (c) found on page 23086. Initially when my client submitted his Building Permit application, it was thought he needed a variance. However, Janice Fuentes, ZBA Secretary, suggested my client apply to the ZBA for a “determination”. The addition is fully within the zoning. My client should not be before you. I would like to submit for the record a letter dated October 29, 1987 and a copy of the ZBA Minutes with respect to a variance that was granted on October 11, 1989 for rear yard and minimum side yard. Once a variance is granted that becomes the legal setback for that building, so at this point everything is legal.

Sapir - As long as it is not extended. We have a letter from Seymour Waldman, Village Attorney, with respect to a different application that states that.

Snow - I also found a case from Queens, regarding an application with respect to a house that had a prior variance and the case was overturned. The court ruled that unless there was a specific statement in the Zoning Law or if the variance had a condition that prohibited extending the degree of non-conformity than the variance would not stand.

Sapir - Were there any conditions in any of the variances that were given to your client?

Snow - No.

Sapir - Was that the Appellate Division of the Supreme Court?

Snow -Nassau County Supreme Court.

Snow - My clients had their closing in May. I do not feel it should have come to your (ZBA) in the first place. My clients sold their home prior to purchasing this one and they were hoping to have the construction completed by now and to move into their new home. They cannot live in the house during construction Having this hearing put off for one month has put them in a bind.

Sapir - Has your client spoken to his neighbors that were at the last meeting?

Snow - My client is willing to split the cost of a fence. He is willing to work with them.

Szoboszlai - Is there any relief you want?

Snow - I would like a determination that my client does not need a variance. I think the law is clear.

Sapir - Anyone else like to be heard?

There was no reply.

Hearing closed.

Rolnick – Motion to make determination under the advice of council, that no variance is required for the proposed structure and according to plans submitted to the Board.

Stephens – Second the Motion

Vote: 5-0 All In Favor – Rolnick, Stephens, Sapir, Waitkins, Szoboszlai

Mark & Paula Chamberlin, 10 King Street. Section 68.17 Block 1 Lot 69. Request for a side yard, total side yard, and front yard variance with respect to a proposed two-story addition.

Paula Chamberlain - I am requesting a side yard, total side yard, and front yard variance. We are in a RA-25 Zone. We are requesting an east side yard variance of 8 ft. 3 ¼ in. and a total side yard of 10 ft. 5 ¼ in. and a front yard of 30 ft. 6 ¾ in.

Sapir - What is the front yard setback for the house as it exists now?

Chamberlain – It is approximately 2 ft. It is legally non-conforming. It was built in 1859. There was an addition put on the side of the house. There was no Zoning Code at the time. The proposed construction will be set farther back than the old addition is now.

The Applicant's Architect - The new structure will be less than 12 ft. from the side yard lot line. The idea is to phase the construction so it will relate to the family and how it is growing. We will add the new to the existing and then remove the existing addition and put a small bay window that will allow more light.

Szoboszlai - The ultimate result will reduce the degree of non-conformity, so you are increasing your new setback by 10 ft.

The Board requested elevation plans.

Plans were submitted to the Board and made part of the record.

Sapir - Is there anyone present for this application who would like to review these plans. If so, they may do so.

There was no reply.

Discussion followed over elevation plans.

The architect stated tat the elevation plans were basically for the footprint only. The plans are not exactly according to the way the addition will be built.

The Board suggested the applicant adjourn the hearing until September in order to allow time for the applicant to submit the proper plans.

The architect stated that he could get a revised set of plans to the Board by tomorrow and asked if the Board could possibly approve the application contingent upon the approval of the final set of drawings.

Discussion followed over elevation plans.

The architect questioned whether elevation plans were usually required for variance requests?

Sapir - There is no requirement, but it is certainly recommended.

Szoboszlai - I am confused on how we should handle this.

Sapir - We can make an agreement.

The applicant stated that she was concerned because she may not financially be able to complete the project. Therefore, the project would not be "according to plans submitted".

The application process for requesting extensions of Building Permits was explained to the applicant.

The applicant requested to amend the application as follows:

“Proposed one story porch and demolition of one story structure on the north east corner of the property”. The plans to be used are the plans that were submitted with the application. The elevation plans that were submitted at the meeting are not being used. The setbacks originally requested on the application will remain the same.

Rolnick – Is the old addition grandfathered?

Chamberlain – Yes.

Sapir - Anyone else like to be heard?

There was no reply.

Hearing closed.

Szoboszlai – Made Motion to grant the application according to plans submitted and amended to delete the proposed on story porch as shown on plans and **without** the removal of the existing one story structure on the north east corner of the property as shown on plans submitted. The Board grants a single side yard variance of 8 ft. 3 ¼ inc. and a total side yard of 10 ft. 1 ¼ in., a front yard variance of 30 ft. 6 ¾ in. The construction is to be completed according to plans submitted and amended and the non-conformity may not be expanded beyond what is granted.

Sapir – Second the Motion

Vote: 3-2 - In Favor – Szoboszlai, Sapir, Stephens,

Abstained – Rolnick, Stephens, - The variance should have been granted based on the plans “as submitted” not as “amended” without plans.

Raul Chacha, 184 Grand Street, Section 68.17 Block 4 Lot 49. Request for a side yard, total side yard, and lot width variance with respect to a proposed addition.

Raul Chacha - I am the owner of 184 Grand Street. I am requesting a total side yard, side yard and lot width variance for a proposed extension.

Sapir - What is the total size of the house?

Chacha - I have one bedroom, living room, kitchen, dining room. The addition will be to the first floor only and there will be a basement-playroom with heating for the kids when they are playing. There will also be electric and plumbing added.

Sapir - How many people live in the house?

Chacha - My wife, two children on the first floor and I rent to another family on the second floor.

Waitkins - Do you have a garage?

Chacha - Yes, an existing garage.

Sapir - What is the use of the basement now? Is it unfinished? Is it used for storage?

Chacha - Yes.

Rolnick - The plans show stairs leading from the new addition. Is the measurement from the edge of the stairs or from the structure?

Sperber - The list on the plot plan shows what exists and what is proposed.

Sapir - How old are the children?

Chacha - Eleven and nine.

Sapir - Where are they sleeping now?

Chacha - In the living room.

Sapir - So, if the addition is granted they will each have a separate bedroom?

Chacha - Correct.

Discussion followed over the measurements of the setbacks.

Sapir - What is the present front yard setback?

Sperber - 9.5 ft. as shown on the survey. They are asking for a 13 ft. front yard variance.

Sapir - What will the siding be on the front of the house?

Chacha - Aluminum the same as the existing.

Szoboszlai - I am not clear on the steps. How wide are these steps.

Chacha - I am not sure

Sperber - Approximately 3 ft. in width.

Sapir - Any other questions?

Edith Stierli, 182 Grand Street. My property is to the right of his house. We have a fence line and their house is approximately one foot from the fence and that is where the proposed addition will be. The new addition will be right in front of me as I come out of my house. What will be in that corner a brick wall, or what?

Sperber - Look at the west elevation.

Discussion followed over plans.

Stierli - Where will the steps be?

Sapir - Will you get to the basement from outdoors?

Discussion followed over plans.

Chacha - The steps will be on the other side of the house not her side.

Stierli - There will not be a third apartment in the basement, correct?

Chacha - It will only be a playroom.

Rolnick - The windows that are shown on the plans are they existing?

Chacha - The plans do not show the windows, so I will leave it like that.

Sapir - To Mrs. Stierli – Is there something that you would like us to do? Do you have any objections?

Stierli - I have no objection to them as neighbors, I just do not want a third family, that is my concern. I have no problem with the applicant, but what if he moves in three years?

Sapir – Would you like us not to allow a bathroom down stairs, or do you just want us to make sure there is no apartment downstairs?

Stierli - I do not want to have everything blocked out and come out my door and just see a house or a wall.

Rolnick - Is the basement above ground?

Chacha – Partially.

Sapir – Anyone else like to be heard?

Hearing closed

Respectfully submitted,

Janice Fuentes
ZBA Secretary
7/10/02