

VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS
MEETING MINUTES OF MARCH 14, 2007

MEMBERS PRESENT: Kathleen Riedy, Chairman
Rhoda Stephens
Ruth Waitkins
Doug Olcott

MEMBERS ABSENT: Witt Barlow

Meeting came to order at 8:00 P.M.

HEARINGS:

John Gochman, Esq. on behalf of the estate of Dorothy Moran, 137 Benedict Blvd. Located in a RA-5 District and designated on the Tax Maps of the Village as Section 79.13 Block 3 Lot 35. Request for a side yard variance with respect to an existing house and a rear yard variance with respect to an existing detached garage.

John Gochman, Esq. stated that he was the attorney for George J. Lambert, Administrator of the Estate of Dorothy Moran. Dorothy Moran purchased the property in September of 1966. In August of 1966 a survey was done. At the time they were not aware that the house encroached, the side yard setback on the easterly side by .24 ft. and that the garage did not have a minimum of 5 ft. from the property line but was only 4.82 ft from the property line on the northerly side.

Mr. Gochman stated that John Moran passed away in 1999 and Dorothy Moran passed away on September 9, 2006, without a will. The Public Administrator of the County of Westchester, George J. Lambert, was appointed Administrator of her estate and the property was put up for sale. The title company found that the house and the garage needed variances in order to clear title. The variances requested are .18 feet for the existing garage and .24 ft. for the side yard encroachment on the easterly side of the property.

Mr. Gochman stated that the garage has existed since 1952 and will not cause an undesirable change to the character of the neighborhood or be a detriment to nearby properties. The only way to legitimize the existing garage encroachment on the easterly side is to grant a variance of .24 ft. The requested variances are not substantial. The proposed variances will not have an adverse affect on the physical or environmental conditions in the neighborhood since they have been in existence since 1952. The house was purchased by the Moran's in 1966 and the variances that are now required were also required at the time the house was purchased and were not self-created by the Moran's.

Ms. Joan Coyne – (Corsetti) an adjacent neighbor stated that she was concerned about the driveway encroaching on her property. Her house was very close to the property line on the side where the applicant's driveway is located and was concerned with privacy as well. Ms. Coyne was also concerned that it might interfere with the possibility of her putting up a fence in the future.

Mr. Gochman – pointed out that the applicant's driveway was not actually encroaching on the neighbor's property but the neighbor's house was situated much closer to the property line than it should be. Mr. Gochman also stated that the existing driveway has not been used since Mr. Moran passed away and the existing driveway is presently somewhat overgrown.

Mr. Babek Ohezebyagk (new purchaser) stated that he is also concerned about privacy and stated that he had never had problems in the past and would like to be a good neighbor. Mr. Ohezebyagk (the new purchaser) also stated that he would consider discussing the possibility of coming to an agreement with the adjacent property owner with respect to some sort of fencing or screening.

Kathleen Riedy – The ZBA Chairman, stated that Zoning Board only had jurisdiction with respect to the variances that were being requested and that they had no jurisdiction with respect to such agreements and advised the applicant and his neighbor to seek legal advice with respect to that issue.

Hearing Closed.

Stephens– Made Motion to grant a .18 ft. (point 18 ft.) rear yard variance on the northerly side for the garage and a .24 ft. (point 24 ft.) side yard variance on the easterly side of the property.

Olcott– Second the Motion
Vote: 4-0 – In Favor

John & Luz Kochiss, 48 Wells Ave., Located in a RA-5 District and designated on the Tax Maps of the Village as Section 78.08 Block 7 Lot 43.01. Request for a lot depth variance with respect to a vacant lot.

Kochiss – 48 Wells - Norman Sheer Represented the applicant. The applicant had previously applied for a variance in 2005 and was denied. At the time the Board found there was no hardship to the applicant. The Board also stated that the applicant did not cite any other lots on the street that were also substandard in lot depth. However, there are other lots in the area that are also substandard in lot depth and also do not meet other dimensional Code requirements (see copy of tax map submitted with application). Mr. Sheer stated that he did not represent the applicant at that time. The applicant is now asking only for a lot depth variance for the vacant lot according to Section 230-40(D) of the Zoning Code.

The applicant's attorney also stated that after his client was denied the first application in 2005 the Board granted another applicant Robert Scott on Ridge Rd. a substantial lot depth variance.

Mr. Sheer stated that the lot in question meets all other dimensional requirements except for lot depth. The applicant is asking for a lot depth variance of 6.92 ft. according to Section 230-40(D) of the Village Code with respect to average lot depth.

Mr. Sheer stated the proposed variance will not have an adverse effect on the physical or environmental conditions of the neighborhood or district. The variance is so small that it will not impact any physical or environmental conditions.

Mr. Sheer also stated that the applicant's difficulty was self created only to the extent that he purchased the property at a time when the Zoning Code required a lot depth of 100 ft. However, self created difficulty is not a bar to the granting of an area variance but merely a factor to be considered.

Hearing closed

Reidy – Made Motion to grant an average lot depth variance of 6.92 ft. according to Section 230-40(D) of the Zoning Code.

Olcott - Second the Motion

Vote: 4-0 – In Favor

Joseph Borges on behalf of Joseph & Mary Jean Costanzo, 79 Maple Street. Located in a RA-5 District and designated on the Tax Maps of as Section 78.08 Block 7 Lot 25. Request for a Height Variance with respect to a retaining wall.

Kathleen Riedy, Chairman of the ZBA recused herself from the hearing at the request of Roy Chapman at the January 10, 2007 ZBA Meeting.

The applicant stated that the existing Railroad Tie wall is in need of repair. It is 10 ft. at its highest point and 6 ft. at its lowest point. The height of the new mesa block wall will be as tall as the height of the wall on the adjacent property and will continue to be located along the rear property line. The new wall will be recessed 5/8" per row, not vertical, for additional strength.

The applicant further stated that the purpose for requesting this variance is to replace the existing railroad tie wall with a new wall with the same dimensions and without having to relocate the new wall. At its highest point the new wall will need to be an additional 3.5' in height above the Code requirements of 6.5 ft. in height.

For the record, letters were submitted to the Board from several neighbors stating that they had reviewed the plans and discussed the plans with the applicant and had no objections to the applicant's request for a height variance.

Roy Chapman, 24 Wells Ave., a neighbor who abuts the applicant's rear property line attended the meeting and stated that he had no objection to the application but requested screening be provided to hide the chain link fence erected on top of the retaining wall.

Hearing Closed

Stephens – Made Motion to grant a 3.5 ft. height variance according to plans submitted and with the following condition.

1. Screening be provided to cover the area of the chain link fence so it is not unsightly to the rear yard neighbor located at 5 Wells Ave.

Olcott – Second the Motion
Vote: 4-0 – In Favor

Sally & Carl Barnes, 10 Morningside Drive. Located in a RA-9 District and designated on the Tax Maps of the Village as Section 79.09 Block 6 Lot 46. Request for a side yard, total side yard and front yard variance with respect to a proposed addition/existing legally non-conforming house.

Gary Yates, Architect for the applicant – Stated that the applicant was requesting a variance to construct an addition.

Mr. Barnes – Stated that his family is growing and needs additional space. The kitchen needs to be larger. The existing kitchen is too small and inefficient, a family room is needed and an extra bedroom is needed because the existing bedroom is too small for their needs and a bathroom will be added on the second floor.

The Board discussed the plans and dimensions with Mr. Yates, Architect.

Mr. Barnes also stated that the new addition will enhance their living space and allow his family to stay in Croton which they have enjoyed for almost 10 years.

Hearing Closed.

Stephens – Made Motion to grant a total side yard variance of 6.6 ft., Side yard 4.0 ft. and a front yard variance of 1.0 ft.

Olcott – Second the Motion

Vote: 4-0 – In Favor

Louis Guaman, 10 Church Street. Located in a RB District and designated on the Tax Maps of the Village as Section 68.17 Block 1 Lot 40. Request for a Side Yard, Totals Side Yard and Front Yard with respect to (2) proposed porticos. (Adj. on 1/10/07 until 3/14/07).

At the January 10, 2007, ZBA Meeting, the Board requested the applicant to submit revised plans.

The applicant has failed to submit the revised plans as requested by the Board.

The Board unanimously decided to withdraw the applicant's application.

Application withdrawn.

NEW BUSINESS:

Thomas Brennan, 45 Truesdale Drive. Request for consent of the Zoning Board of Appeals with respect to Section 120-8A of the Village Code. Consent for Excavation within 50 feet of a Public Street or Adjoining Property Line. No hearing required.

Mr. Brennan – Stated that he had recently purchased the property and needed to widen the driveway for safe ingress and egress. Mr. Brennan stated he filed for a Minor Excavation Permit to do the work and the permit was issued on February 22, 2007. After the permit was issued the excavation work began and a very small excavator was used. After the excavation began a neighbor to the south complained that Section 120-8A of the Village Code was not being complied with. Section 120-8A states that no excavation shall be made within a distance of 50 feet from public road or adjoining property line without the consent of the Zoning Board of Appeals.

The applicant stated that he is therefore requesting the Board’s “consent” to continue the excavation for which he has a permit.

The applicant also stated that his existing driveway is very narrow and not very safe for ingress and egress. Therefore, there is a necessity for the excavation.

Mr. Brennan also pointed out that he owns the lot adjacent to his lot in question which separates his house from the Fredrick Turner residence at 35 Truesdale Drive. Therefore, there would not be any impact on the Fredrick property.

Mr. & Mrs Fredrick Turner were present at the hearing. They stated that when the excavation began they went to the Village to see if any permits had been issued and was informed by Joseph Sperber that no permits were issued to the new owner. Therefore, he reviewed the Code to see if the new owner was in compliance and requested Mr. Sperber to also review the Code. Later in the day Mr. Sperber informed Mr. Turner that a “Stop Work Order” had been issued to the new owner.

Joseph Sperber, Code Enforcement Officer – Stated that at the time Mr. Fredrick inquired about the permit he (Mr. Sperber) was not aware that the permit had been issued. After checking the records further he realized a permit had been issued and later a Stop Work Order was issued.

Mr. Turner further stated that he did not feel that issuing a “Minor Excavation Permit” was appropriate since the work was within 50 ft. of a public street. Mr. Turner also expressed concern with respect to steep slopes.

Daniel O'Connor, Village Engineer – Submitted a memo dated March 8, 2007, and stated that he issued a Minor Excavation Permit on February 22, 2007 and a short EAF form was prepared (a long EAF is not required). Mr. O'Connor requested that the Board also issue a negative declaration for this unlisted action.

Mr. O'Connor stated that the excavation is not expected to have an impact on the adjacent property. The excavation is being conducted with a very small excavator. A "Steep Slopes Permit" is not required.

Mr. O'Connor further stated that Mr. Turner's property was approximately 190 ft. from the excavation site.

Mr. O'Connor also stated that he felt that Section 120-8A did not apply to "Minor Excavation Permits" but believes the clear intent of the Code was to apply to "Major" Fill and Excavation Permits with excavation of over 100 cubic yards and not "Minor" Fill Permits. But just to be certain he recommended the applicant come before the Board to make certain that he was in compliance.

There were no further comments.

The Board unanimously agreed to close the hearing and adjourn the decision until a site visit could be conducted on March 16, 2007 at 8:30 A.M.

Hearing Closed.

Decision Adjourned until March 16, 2007.

Respectfully submitted

Janice Fuentes
ZBA Secretary
3/14/07

RESOLUTION

Joseph Borges on behalf of Joseph & Mary Jean Costanzo, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a height variance with respect to a retaining wall.

The property, at 79 Maple Street, is located in a RA-5, District and is designated on the Tax Maps of the Village as Section 78.08 Block 7 Lot 25.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

The requested variance was not substantial.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Stephens – Made Motion to grant a 3.5 ft. height variance according to plans submitted and with the following condition.

1. Screening be provided to cover the area of the chain link fence so it is not unsightly to the rear yard neighbor located at 5 Wells Ave.

Olcott– Second the Motion

Vote: 4-0 – In Favor

3/14/07

According to Section 230-164 (E)), “Unless work is commenced and diligently prosecuted within one (1) year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

RESOLUTION

Sally & Carl Barnes, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard, total side yard, and front yard variance with respect to a proposed addition/existing legally non-conforming house.

The property, at 10 Morningside Drive, is located in a RA-9, District and is designated on the Tax Maps of the Village as Section 79.09 Block 6 Lot 46.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

The benefit sought can not be achieved by any other method. The existing house is legally non-conforming.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Stephens – Made Motion to grant a total side yard variance of 6.6 ft., side yard of 4.0 ft. and a front yard variance of 1.0 ft.

Olcott – Second the Motion

Vote: 4-0 – In Favor

3/14/07

RESOLUTION

John & Luz Kochiss has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a Lot Depth Variance with respect to a vacant lot.

The property, at 48 Wells Ave., is located in a RA-5, District and is designated on the Tax Maps of the Village as Section 78.08 Block 7 Lot 43.01.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

The requested variance was not substantial.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Stephens – Made Motion to grant an average lot depth variance of 6.92 ft. according to Section 230-40(D) of the Zoning Code.

Olcott - Second the Motion

Vote: 4-0 – In Favor

3/14/07

RESOLUTION

John Gochman, Esq. on behalf of the Estate of Dorothy Moran, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard variance with respect to an existing house and a rear yard variance with respect to an existing detached garage.

The property, at 137 Benedict Blvd., is located in a RA-5, District and is designated on the Tax Maps of the Village as Section 79.13 Block 3 Lot 35.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

The requested variance was not substantial.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

The hardship was not self created. The variances that are required were also required at the time the house was purchased and was not self-created by the applicant.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Reidy– Made Motion to grant a .18 ft. (point 18 ft.) rear yard variance on the northerly side for the garage and a .24 ft. (point 24 ft.) side yard variance on the easterly side of the property.

Olcott– Second the Motion
Vote: 4-0 – In Favor

3/14/07