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FINAL APPROVAL: 07/30/08

VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS
MEETING MINUTES OF JUNE 11, 2008

MEMBERS PRESENT: Kathleen Riedy, Chairman
Rhoda Stephens
Witt Barlow
Doug Olcott

ALSO PRESENT: Daniel O'Connor, Village Engineer

ABSENT: Joseph Sperber, Asst. Bldg. Inspector

APPROVAL OF MINUTES:

5/14/08 – Stephens - Made Motion to accept the minutes as corrected
Barlow – Second the Motion
Vote: 4-0 – In Favor

Kathleen Riedy, ZBA Chairman – Announced the location of fire exits to all in attendance of the meeting.

Riedy – I will be recusing myself from the Schmidt/Jacoby St. hearing due to the fact that I represented the applicant when he purchased the property. Because I will be recusing myself the Board will be left with only three members to vote on the application. Therefore the applicant would need a unanimous vote of all three members in order to be granted the variance he is requesting. Whenever an applicant is in that circumstance, it has been the usual practice of the Board to allow the applicant to make a decision as to whether or not he wishes to adjourn until next month or proceed with the hearing tonight.

Mr. Schmidt – I can't do that. I need to proceed with the hearing this evening.

Riedy – I will be appointing Rhoda Stephens as Acting Chairman for this hearing.

HEARINGS:

Walter D. Schmidt, Jacoby Street. Located in a RA-25 District and is designated on the Tax Maps of the Village as Section 68.18 Block 1 Lot 3. Request for a variance from Section 230-33 of the Village Zoning Regulations and further requests to conform to Section 230-40(G) of the Village Zoning Regulations.

Acting Chairman for this hearing - Rhoda Stephens.

Schmidt – Good evening Members of the Board and Mr. Dan O’Connor. In my letter to the Board and in my request I spelled out why I am going about this process. I notice there are a few of my neighbors here this evening and I understand they want woods instead of an empty lot that could be built on. However, if you look at the zoning maps a house, depending on the size, could be built on it without any problem. I have colon cancer and I am running short on money. When I first purchased the property I was paying \$5,000.00 on taxes. After I built my house I was paying almost twenty thousand. I purchased the property two and one half years ago.

Stephens – and you were only paying five thousand in taxes?

Schmidt – What I did was, I tore down the old house and built a new one. I raised the value of the neighbor’s property as well as my own. There is a rumor that I am a major builder. I am not. My business is advertising and marketing. I probably would not be doing this but I am financially forced into a position that I have to do something. An entrepreneur has to do what he has to do to find a way to pay for everything. I built a house on Sunset and again I tore it down and rebuilt and the taxes increased and the taxes put me over the top. I could not handle it. As I say in my letter, no good deed goes unpunished I try to better the community when I go into these situations. Although I know my neighbors would rather have a vacant lot there, it is a separate lot. I am taxed separately for that lot. It is meant to be a buildable lot. My neighbors that are here tonight do not have a bigger lot than this one. I am looking for a natural lot line. There is a slope in the back of my 213 Cleveland property. I have the twenty foot setback to put a dwelling and my vision is to put in a stone wall and draining, etc. That will be done through the Planning Board when the time comes.

Barlow – So, you certainly will not have the same tax problem as you did with the other.

Schmidt – Hopefully my business will rebound and can pay for my cancer expenses.

Stephens – What are you proposing to do?

Schmidt- Splitting the lot off 100 ft. frontage x 125 ft. I am hoping I can keep my shed without major moving involved.

O'Connor – A Lot area of 25,000 in required in a RA-25 District. (Discussion followed over the area of the vacant lot and the total lot size with both the lots).

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Schmidt – I am giving 100 ft and towards the end narrowing it a bit to save the shed.

Barlow – It still is not clear what you are asking for.

Schmidt – I am asking for pretty much the fence line.

Barlow - You have the appropriate frontage and depth?

Stephens – We have to have specific figures, because we need to grant it exactly according to the number of feet that is required.

Schmidt – The fence line would be the lot line.

Discussion followed over lot depth size and frontage.

Schmidt – Prior to January 2, 1962 a RA-25 Zoning requirement for area was actually 75 x 100.

Stephens – But then it was sold to you as one lot and you created that other lot after you purchased it

Schmidt – I did not purchase it as a separate lot. It already was separate. If you look at it every house around it is about the same size.

O'Connor – The zoning issue is due to the original sub-division when it was Harmon Park prior to any zoning regulations. In 1931, Zoning was established and it was again updated in the 1960's. In the 1960's zoning regulations it had a provision for existing

small lots. That applied if you had an old lot and it was held individually and separately continuously from that time. That lot was measured prior to Mr. Schmidt owning it.

Schmidt - I know there was a person renting the property when I purchased it.

O'Connor – Those automatic hard core variances are not available, so therefore, specific variances need to be requested. It was merged. That has issues. An area variance would be needed and a width variance might be needed, but we do not know where the proposed property line will be or the depth variance that would be needed. The two lots were originally combined together on a deed. That lot originally consisted of old lot numbers 31, 32, 33) they were merged probably from the start. It could have been held individually and separately and one house could have been held separately.

Stephens – So, if this was owned by the original owner he could have built three more houses on this lot?

O'Connor – Lots 31,32, & 33, were originally combined together on a deed. Those lots were merged probably from the start and could have been held as separate lots and one house could have been held separate.

Schmidt – I look at it with common sense, it is a building lot.

Barlow – Prior to your owning it, it was merged, so it was not separate and you purchased knowing that.

Schmidt – I didn't know I would be paying separately for village and county tax..

Olcott – Have you challenged you assessment?

Schmidt – I did and it came back negative. I have not taken it further. I put it through Joseph Sperber, Assessor and it came back negative.

Stephens– You are looking for relief from the small lot section of the code?

Schmidt – correct.

Stephens – Would you have all the other minimum requirements that would be necessary?

Schmidt – Absolutely.

Stephens – But, are you sure of the exact measurements that will be needed?

Schmidt - Being that I have built houses before, I know it meets all those requirements.

Discussion followed over measurements of the lot and minimum setback requirements.

O'Connor – The Board needs to make a decision under Section 230-40(G) of the Village Code. If it does not apply then you need to look at the fact that they have been merged after a certain date and it results in needing to give certain variances. It then has less width and less depth than what is required, and those measurements have not been specified yet. The lot would also need a rear yard with no less than 25% of the depth. If the Board looks at un-merging the lots, then we would be looking at lot area and depth and reductions in the side yard which also come into play when a lot is of a certain width. If it will be over then the lot would be wide enough to meet certain setbacks. If the lot will be smaller then it will need a variance. It is difficult to determine without knowing the actual proposed dimensions. If you gave a variance according to the bulk requirement a depth variance would be needed. Also, the Board would need to consider the lot that contains the house. It may also need a variance depending on where the lot lines will be located. There is also a shed on the improved property that would need to meet certain setbacks. We need to know specifically where the property lines are going to be established.

Discussion followed over determining lot area and if variances are needed depending on how the proposed outlines are located.

Stephens – Are you aware that we received a letter from a neighbor at 204 Cleveland Drive by the name of Joseph Biber? (Letter submitted for the record).

Schmidt – Too bad he did not look at the public records. I made it clear in my application and addressed his concerns.

Christopher Caulfield – 1 Jacoby Street. My house is on the parcel next to the applicants parcel. I live there with my wife and two year old twins. We have no flood issues as most of my neighbors do. We would not want anymore water flowing in that area or

into the street. I have pictures of what happens almost every time it rains. (referring to pictures) This is the house directly across the lot in question.

Schmidt – Is there flooding on this side of Jacoby? (Referring to pictures).

Caulfield – Currently not, but that is what I am afraid of. We feel for his situation. My wife is in remission from Non-Hodgkin's Lymphoma. This also leads to my concern of him being able to follow through on this project to the end, and he may sell anyway, and move, because he has moved twice in the last five years. The economy is bad and Croton has one hundred homes for sale and they have been up for sale for awhile. According to my interpretation of the steep slopes law, this also may become an issue. A large number of trees will need to be cut down. We understand he has a right to build on his property, but we need to protect everyone around him as well. It would drastically change the character of the neighborhood and may cause flooding on my property and there may be an issue of his house being right on my property line, because we do not yet know the dimensions of the lot in question or what kind of house he will build.

Schmidt – I think everyone would like more trees and more lot. The water issue, I understand totally. I was forced to put in drywells. All the water is going his way anyway. So we will need to deal with that and deal with that effectively. He has an existing drainage problem already. My vision is to have a small knee wall to catch all the water.

Caulfield – It cannot be that big of a home in that area and it seems like a lot of money and expense for something that may or may not work. It is a big variable.

Ken Rose – 2 Jacoby St.– You have pictures of flooding that were submitted, so I would like to reiterate that issue. We like the wooded area and the quiet.

Schmidt – Basically, they want their view and it is not theirs, it is mine, and I understand that people are very reluctant to change. It still boils down to the fact that it is my property and it is not theirs.

Caulfield – My lot is bigger than his proposed lot. Yes, he can build, but there is a view issue but I am also worried that I will have a house right on my property line.

Neil Hammel – I live directly across the street from where this house will be built. We have lived there 38 years and I remember my parents specifically asking if they were going to build across the street and they were told no. So, I dispute the contention that it was considered a buildable lot all along. The village put pipes in front of my property because there was a storm sewer there that flooded all the time. Prior to that, I got flooded all the

time. I fear what will happen if the lot across the street is built on. When the trees are gone, I am concerned about the drainage. I do not think it was intended to be a buildable lot.

Schmidt – The question is, was it intended to be a buildable lot from the beginning? Maybe a little smaller, but it was intended by the village that it would to be a buildable lot. The village would not have indicated it was a building lot. I told Mr. Sperber that I could understand why you would need an oversized lot in one area but on our side we already have sewer. They have septic. You do not need as much property to build as you do when you have septic.

Stephens – Anyone else like to be heard?

There was no reply.

Hearing closed

Barlow – Made Motion to grant a variance from Section 230-33 of the Village Code and to further grant the applicant's request to conform to Section 230-40(G) of the Village Code.

Olcott - Second the Motion

Vote: 3-1 – Against - Barlow, Olcott, Stephens
Riedy – Abstained.

Mary Clark DiRusso – 60 Emerson Ave. Located in a RA-5 District and is designated on the Tax Maps of the Village as Section 79.05-4-59.

DiRusso - We have a ranch style house. We understood that you do not need twenty feet between houses. When we purchased our house we had two children and we only have two bedrooms upstairs. We now have a son and a daughter in the same bedroom. We only have one bathroom that is located on the first floor. We are proposing three bedrooms and two bedrooms will be on the second floor.

Riedy – Is there a survey of this property.

O'Connor – On the second sheet of the elevation plans that were submitted, you will see a survey.

Stephens– (to Gary Yates the applicant's Architect & referring to plans). On the elevation plans you are raising this side to meet the roof and the addition?

Gary Yates, Architect – This is a one story house with a bunch of strange dormers. We will tear off the roof and put a second floor.

Olcott – How much higher roof peak will there be?

Gary Yates – eight on twelve.

Stephens – The side that exists now, will that peak be the same in the addition? You have one side that comes up will that remain the same height?

Yates – Higher . It is about the same pitch. It is about eight feet. That is a fair assessment.

Olcott – How much square footage are you adding to the house?

Yates – With dormers and everything, probably half or less than half of the area that is up there now. Maybe ...

Discussion followed over floor plan.

Yates – Thirty one by twenty seven. I would say about less than half. Approximately 600 – 700 sq. ft. If I can explain their situation. It is awkward using the one bathroom on the first floor. They need more space because the family is expanding and they have a son and a daughter in high school that are using the same bedroom.. They have to go downstairs to use the bathroom, plus they need more space. We are residing the whole house and talking about painting it scotch gray with white trim or using Cementicious Board. It is a cement board material that looks like wood siding. It is painted. It holds paint better than wood because it does not breath, like wood. They are asking 1.2 ft. variance.

Riedy – On the second paragraph of the submission. On the front side of the house looking directly at the house, the side that is 8.25 from the property line. Which plan depicts the location of the windows of that house?

Yates – The south elevation.

Riedy – Is that a door next to the chimney?

Yates – It is an existing door.

Discussion followed over plans.

Riedy – The door is existing and your plan is to keep the door, and there will be a stoop there?

Yates – There are no changes on the first floor.

O'Connor – (referring to plans) The chimney is there already?

Yates - Yes it will have to be extended. It is about two feet wide or sixteen inches.

O'Connor – It projects from the house sixteen inches?

Yates – Yes and it is about two feet wide.

Stephens – So that reduces the side yard.

Yates – it reduces it?

Discussion followed over the chimney measurement and setback dimensions.

Barlow – It is important that we have the correct measurements or you might need to come back to us if they are wrong.

Yates – So let's say it is two feet.

Mrs. DiRusso– Owner – We showed our plans to our neighbors on that side. The house will be as it exists; the addition will be flat straight up. It will be as it exists. It will be flat straight up.

Stephens – We just need to calculate the chimney.

Riedy – they need a two foot side yard variance.

O'Connor – 1.75 ft. side yard variance and a 3.2 ft. total side yard variance.

John Giglio – 50 Emerson Ave. – I live three houses up from theirs. They do have a problem with not having enough room upstairs. The boy and girl sleep in the same bedroom. I do not know or understand. The building was constructed and now they need a variance? For what? .

O'Connor – The house was built in 1956 and the Code was changed in the early sixties that made the requirements larger dimensions.

Giglio – I think you should approve it for them.

Riedy – Anyone else like to be heard?

There was no reply.

Hearing closed.

Stephens – Made Motion to grant a 1.75 ft. side yard variance and a 3.2 ft. total side yard variance according to plans submitted.

Barlow – Second the Motion
Vote- 4-0 – In Favor

James Levey, 10 Park Ave., Located in a RA-9 District and designated on the Tax Maps of the Village as Section 79.09-3-19. Request for a total side yard variance with respect to a proposed addition.

Mr. Levey – This is my architect Christopher Bochart. We are here looking to expand an existing non-conforming structure. It does not meet the total side yard for the property and proposed addition. We are basically asking to have the existing measurements approved. We are asking for 4.38 ft. variance. With respect to the five criteria – undesirable change – we have been very careful to match the existing house as close as possible. We will not change the style from the current style. We have tried to keep the

proposed construction within the side that will have the least constraint upon it. With respect to if the area variance is substantial, we have 88 percent of what is required we only looking for a 12% increase. The existing non-conformity came with the original structure. We moved to this house in June of 1993.

Riedy – How large is the house in square footage?

Mr. Levey – Now it is 1,830 sq. ft. The letter you received is from a neighbor Mrs. Lauro. She is bedridden and has not been in the house for several years, over five years, approximately. So, her argument that it will affect her view is outrageous, because she does not actually live there. My wife and I have taken care of our property meticulously and have spent lots of money improving the property, cutting trees, plantings, etc., we now intend to enhance the value of the house. We have spoken to our neighbors and believe what we are proposing to do will enhance the neighborhood and the tax receipts of the town. The house faces north and south. There are two or three windows on the side of the house and there is absolutely no obstruction to her view. If you look at the drawings from the second floor we eliminate maybe two or three percent of her view. Her implication is absurd.

Olcott – Is It the west elevation she is objecting too?

Levy – What she is implying is not the case at all. The setback measurements of the house were conforming at the time the house was built. But, they do not conform to today's standards. She has objected to several neighbors that have done renovations and I believe that what we are doing is the right thing for the community and I do not understand her reason for objecting.

Borchardt - There was a very conscious effort to have a new structure that will basically be unchanged from what exists.

Levey – One of her concerns is the environment and if you look at her house it needs maintenance. It has been neglected.

Barlow – They have a flat roof now and they request that they consider a peak roof.

Discussion followed over roof style and what affect it would have on the neighbor's view, etc.

Levey – If you go on her property and see the amount of view that will be affected it is extremely minimal.

Bochardt– We are asking for a 4.38 total side yard variance.

Riedy – (Referring to plans) The plans showing the second floor addition, that corner, will that be the master bedroom?

Discussion followed over plans.

Riedy – With respect to Mrs. Lauro’s concerns. Her view will be looking at a couple of windows and the proposal is to add a second story on that side with a master bedroom and roof deck overlooking her property?

Levey – I do not understand why that should be an issue.

Riedy – What screening exists on the property today?

Bochardt – There are pine trees that are shown in the pictures that we submitted and stated that the roof deck sits behind those trees.

Stephens – If we insisted on screening would you agree?

Levey – absolutely!

Stephens – The letter of objection from Mr. Levey’s neighbor Mrs. Lauro is submitted as part of the record.

Levey – We believe the letter is overly dramatic and totally out of context.

Riedy – What are the plans for the exterior?

Bochardt – Our idea is to introduce cedar siding in specific locations in and around the front entry. It will be stucco and cedar.

Levey– We hired Christopher Bochardt because of his design principles and other work he has done in the neighborhood.

Barlow – Why are you adding another bedroom?

Levey – We have two sixteen year olds and we feel the additional space is needed for their privacy.

Riedy – (To O'Connor) The egress window depicted in A-1.1 of the second floor master bedroom plan and A-3.0 shows the plans for the roof deck and a short side railing and then the window.....(Discussion followed over plans).

Bochardt -On the building code review that typically does not need to be an egress window but I like to provide more than what is required in case of emergency. We looked at that window as a double window. Originally it is just in keeping as the theme. We did not want to give her the feeling that someone was overlooking her yard.

Riedy – I can see from one of your plans how you have the corner windows designed and you attempted to mirror that on the second floor.

Riedy – Any other questions?

Louise Levey– 10 Park Ave. – With respect to Mrs. Lauro's letter, she has always objected to everyone's plans for construction. She is an absentee landlord and her house has been vacant and un-kept for years. She has not painted nor has she lived there in the last ten years. She is not of sound mind. I think the architect has come up with a beautiful plan that will enhance the block and all our neighbor's approve of it.

Barlow – What are the variances requested?

Bochardt– total side yard 4.38 ft.

Hearing closed.

Stephens – Made Motion to grant a 4.38 total side yard variance for an existing non-conforming property with the condition they maintain evergreen screening on the west side of the property between number 6 & number 10 Park Ave.

Barlow – Second the Motion

Vote: 4-0 – In Favor

ANNOUNCEMENTS:

Witt Barlow – Announced he will be moving to another state and therefore resigning as ZBA Member.

Respectfully submitted,

Janice Fuentes
ZBA Secretary
6/11/08

RESOLUTION

James Levey, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a total side yard variance with respect to a proposed addition.

The property, at 10 Park Ave., is located in a RA-9, District and is designated on the Tax Maps of the Village as Section 79.09 Block 3 Lot 19.

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

The applicant will provide adequate screening for neighbor on the westerly side of the subject property.

There will be no detriment to the environment or nearby properties.

The variance is not substantial.

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

Stephens – Made Motion to grant a 4.38 total side yard variance for an existing non-conforming property with the condition they maintain evergreen screening on the west side of the property between number 6 & number 10 Park Ave.

Barlow – Second the Motion

Vote: 4-0 – In Favor

6/11/08

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

Mary Clark DiRusso, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a total side yard variance with respect to a proposed addition.

The property, at 60 Emerson Ave., is located in a RA-5, District and is designated on the Tax Maps of the Village as Section 79.05 Block 4 Lot 59.

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 no undesirable affect to the neighborhood.

There will be no detriment to the environment.

The requested variance is not substantial.

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

Stephens – Made Motion to grant a 1.75 ft. side yard variance and a 3.2 ft. total side yard variance according to plans submitted.

Barlow – Second the Motion

Vote- 3-1 – In Favor – Barlow, Stephens, Olcott

Nay - Riedy

6/11/08

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

Walter D. Schmidt has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a variance from Section 230-33 of the Village Zoning Regulations and further requests to conform to Section 230-40(G) of the Village Zoning Regulations.

The property, at Jacoby Street, is located in a RA-25, District and is designated on the Tax Maps of the Village as Section 68.18 Block 1 Lot 3.

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

With respect to Section 230-40 (G) of the Village Code with respect to existing small lots the applicant failed to show that Lots 65 & 3 were “held individually and separately on January 22, 1962, and held individually and separately at all times thereafter.”

After considering testimony from the applicant & neighbors the Board determined that the character of the neighborhood would be affected.

The applicant failed to establish hardship for exemption from the Zoning Code.

The hardship was self-created and variances substantial. The applicant was aware of the non-conformity at the time he purchased the property. When the applicant applied for demolition and new construction on lot #65, Lot #3 was included in the lot area size. If the applicant were to now separate Lot 3 & 65, it would create a non-conformity with both lots #65 and #3.

With respect to Section 230-33 of the Village Code, the applicant was unclear and did not submit sufficient details with respect to lot description and proposed plans and did not supply any specifications with respect to proposed setbacks.

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

Barlow – Made Motion to grant a variance from Section 230-33 of the Village Code and to further grant the applicant’s request to conform to Section 230-40(G) of the Village Code.

Olcott - Second the Motion

Vote: 3-1 – Against - Barlow, Olcott, Stephens
Riedy – Abstained.

APPLICATION DENIED

6/11/08

