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FINAL APPROVAL: 03/11/09

VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS
MEETING MINUTES OF FEBRUARY 11, 2009.

MEMBERS PRESENT : Kathleen Riedy, Chairman
Rhoda Stephens
Doug Olcott
Alan Macdonald
Roseann Schuyler

ALSO PRESENT: Joseph Sperber, Asst. Bldg. Inspector

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

Location of fire exits were announced to everyone present at the meeting.

HEARINGS:

Thomas Fallacaro, 3 Arrowcrest Drive. Located in a RA-40 District and is designated on the Tax Maps of the Village as Section 67.15 Block 1 Lot 33. Request for a variance from Section 230-40(A)(1)(B) with respect to a retaining wall being built less than five feet from the side property line, and Section 230-40(b) with respect to a retaining wall being built in a front yard, and Section 230-40(A)(1)(a) with respect to a retaining wall being built higher than 15 ft. (Adjourned on 10/11/06) (11/07/06 Fax request to adjourn until (12/13/06), (12/6/07 requested to adj. until January 10, 2007), (1/3/07 request to adjourn until February 14, 2007). (2/13/07 -Applicant requested to adjourn until further notice).

Norman Sheer Esq. – 399 Knollwood Rd., White Plains, N.Y. – I am here to represent Thomas Fallacaro the owner of 3 Arrowcrest Drive that is located in a RA-40 District. I am here to give a status report. He made an application to the Board awhile ago. In the past ten years he has done a certain amount of work without the benefit of permits. We are seeking to legalize all the work that was done. It will be a complicated process. The process will cover four Boards. The Planning Board, Zoning Board, Water Control Commission, and the Village Board. We are here to give a status report and then be re-noticed for a hearing. The application will be for a large wall that are shown in the drawings. We need a setback variance under “accessory structure” for it. The wall is in

excess of the limited height requirement of 15 ft. The wall is 16 ft. We have been before the Planning Board and one of the questions the Planning Board asked us was; “Is the wall safe?” We had an Engineer, Bernard Grossfeld, who is a structural engineer look at the wall and I would like to submit his report to the Board in addition to the documentation you already have. We will also hire a company to examine it with ground radar which is an aide that enables them to see what is behind the face of the wall. We need to schedule a site visit and suggest all the Boards attend together.

Riedy – This application was originally submitted in 2006. I ask you to look at the original submission. If in fact you want to make any changes, I would like to take this opportunity to ask you to do it now. It will be re-noticed.

Sheer – I would like to request to withdraw the original submittal and re-submit the application and it will be re-noticed. I am not sure just when it will be referred to the Zoning Board. It may be going to the Planning Board first.

The Board unanimously agreed to grant the applicant’s request to withdraw the original application and a new application will be submitted and re-noticed at a later date.

Original Application Withdrawn

Vladimir & Lyudmila Iokhvidov, Riverview Trail, Located in a RA-25 District and is designated on the Tax Maps of the Village as Section 68.17 Block 1 Lot 13. Request for a lot area and lot depth variance with respect to a proposed new one-family dwelling. (Adj. on 1/14/09).

John Gochman, Esq. was present to represent the applicant.

Rhoda Stephens, ZBA Member – Mr. Gochman and I are related. However, I feel that our relationship will have no bearing on this application and that I can make a fair and impartial vote for or against this application.

No objection was raised by the applicant.

Gochman – The applicant is requesting a Lot Area and Lot Depth Variance for a proposed one-family dwelling. The Lot area required is 25,000 sq. ft. and the existing area is 20, 144 sq. ft. It needs a variance. The depth requirement is 150 ft. and the existing depth 119.29 ft. It will need a variance. Although a depth variance is required it is only required on one side of the property.

The other side exceeds the requirements for depth. I met with my clients on January 23, 2009, and with John Power, the applicant's Architect. I also obtained a copy of the minutes for January 14, 2009. I also worked with Mr. Noviello the applicant's engineer. We have submitted revised plans that show a reduction in the measurements (we reduced it by 10%) and we also addressed the concerns of the neighbors. I have also submitted answers to some of the neighbors concerns and have submitted a sub-division map that identifies the subject property as Lot #62. We also submitted a survey showing that the lot existed in 1946 and it shows the meets and bounds of the property. We have gone over many deeds and boundary lines and Mr. Power will address those issues specifically. He will also explain the diagram. Mr. Noviello the Engineer will address the sewer system that will be connected to the Village sewer system as well as the water system. The neighbors had some concerns with respect to a potential septic system. There will be no septic. After they present their case, I would then like to present the five factors.

Power – I have renderings of elevations. I would like to re-visit how this project was presented to the neighbors. We had a petition that listed a number of things that were inaccurate. When there are inaccuracies it cannot be considered a petition. The neighbors did not see the drawings, etc.

Riedy – May I suggest you submit your presentation and with respect to the neighbor's submission, you can comment on that later. This is a significantly different proposal than what was presented at the last meeting, according to Mr. Gochman, so address that first.

Power – The first major re-design was the reorientation to the rear of the side yard to preserve the view of the neighbor located up the hill at 4 Park Trail (referring to plans). The previous design went across the side. It is now pushed to the rear. The proportions of the house have been slimmed down. However, there are prime views of the Tappan Zee Bridge, Croton Point, and the Hudson River. Those views will not be affected. We will have 2,700 habitable square feet. There will be lower ceiling height and lower roof slope. The home is now longer and narrower to press it back on the site more. A garage with space to allow a car to maneuver in and out of it. The foyer spaces are one story. There is less excavation. Retaining walls are few. One will remain. It is the one by the side of the garage at the access to the garage. A half acre would allow 4,000 sq. ft. of space. It is well below that. The roof height is approximately twenty eight feet. That is also well below the thirty five feet required. All setbacks and heights are honored. The home will have high efficiency heating. The property itself will be maintained as it has not been for over fifty years. One neighbor stores fire wood on this property and another one drains water onto the site. I ended my research at #24 showing how all the properties are undersized and do not meet setbacks. I see many homes in vinyl siding and to me what looks like contemporary ranch style homes. I would not say this area has some sort of historical or architectural characteristic.

Gochman – He is referring to the area property list that was submitted on February 3rd, with the revisions.

Riedy – Are the drawings on the Board part of the submission? Do you want to make them part of the record?

Power – They are in the submission.

Gochman – I would like the large drawings made part of the record too.

Mr. Power agreed to have copies of the large drawings made smaller so they will be easier to file.

Riedy – Looking at what is on the wall, can you co-ordinate what is on the wall and what we have in our package.

Power – The colored drawings on Page A-6 show the front or west elevation and the uphill or north elevation. Page A-7 shows the rear or east elevation and downhill or south elevation. Page A-2a shows the zoning analysis. The drawing represents the new design with front yard, side yard, and all yards being different than the original submission. Page A-2b is the composite plot plan using surveys of all three neighboring properties and identifying the location of those properties to scale. Within that drawing are dash-dotted lines that crosses three residences. Page A-2c shows roof heights.

Riedy – Thank you. That was very helpful.

Power – 1-A7 shows the floor plan. I will not get into detail. Nothing extensive about the size of the rooms.

Gochman – Now Mathew Noviello the Professional Engineer will discuss the plans for the sewer and water connection.

Noviello - Basically the site had some prior development many years ago and has some ledge rock and slope to it. It would be wise to connect to Village sewer but, there is no main, in front of the property. We propose to run a line up the road and providing a Tee for other properties to connect to, if they wish. That is standard practice when extending sewer lines in areas with other houses. It slopes down hill, left to right. Neighbors were concerned if drainage will increase. We will provide physical devices to go from impervious surfaced seepage pits. That will put the water back into the ground. There will be no drainage issue. In terms of grading the driveway position, we should not have that much of a problem. Any other questions?

Hearing interrupted: A Member of the public interrupted when a Board Member was about to speak. The Chairman of the Board requested there be no speaking out of turn. The Chairman explained that the Board speaks first and the public will then have a chance to speak.

The member of the public who did not give his name stated that he had an appointment and would not be able to stay.

Ms. Riedy, Chairman – Suggested he write his questions down and the Board will address them later in the evening. The member of the public agreed to do so.

Hearing continued:

Macdonald – Have you done perk tests on the property?

Noviello – No. Where rock is not near the surface there appeared to be a loam type soil, not clay, if that is the case, we will have no problem getting it to go back into the ground.

Macdonald – How many sewer connections will there be?

Noviello – 11

Macdonald – What size water main?

Noviello – $\frac{3}{4}$ in.

Macdonald – If that is not adequate will you upgrade?

Noviello – Yes, if it was not adequate. But, I do believe it is adequate. I have already spoken to the engineer, but I will confirm that.

Stephens – This will be at no cost to the village?

Noviello – At no cost to the Village. This will have to be approved by the Board of Health. You will get a very valuable asset when this is done.

Discussion followed over location of water valves.

Macdonald asked if there were water mains in the area.

Noviello – I specifically asked the Engineer if the water main is there. If no, that is an issue. I will check that. I appreciate the heads up.

Discussion followed over the size of the sewer main lines, etc.

Noviello – It does not have to be that big of a trench. There has to be some place in that area. Where rock is in that area we will have to knock the knobs down to get the main in.

Schuyler – Have you done work in this area before?

Noviello – Yes.

Schuyler – Locally.

Noviello -Ossining, Tarrytown, etc.

Macdonald – (To Mr. Power the Architect) if I were standing at the South West corner of the property at street level, I would be standing at an elevation of 192, standing at street level?

Power – 194

Macdonald – So, I have to look up into the air twenty feet just to see the basement floor? The peak of the roof is 55 ft. off from the street?

Power – Well, you are eighty feet away and most of the trees in that area will not be removed. One of the oppositions to this project was not to do much excavation. The perception of this looming over the street is wrong. It is approximately seventy feet away from the concrete. You probably would not see the peak of the roof. What you will see is the edge of the roof.

Noviello – The road is relatively steep, but the driveway that goes into the house is not elevated.

Discussion followed over elevation of the driveway.

Macdonald – I do not see any skyscraper houses in your submittals. Fifty five feet in the air does not look like any of these other houses in the area.

Noviello - There are other two story houses in the neighborhood.

Power – The neighbors behind the property is building a second story without a permit.

Discussion followed over pictures and the grade of the driveway.

Gochman – We had to modify it to accept some of the concerns of the neighbors and it is more in line with the topography.

Macdonald – But, it is not lower.

Gochman – It is lower. It now is not more than 28 ft. high.

Stephens – What is the square footage of the vacant lot?

Power – 20,144 sq. ft. as shown on A-2a of the zoning analysis.

Gochman – It also shows the prior square footage and the proposed.

Schuyler – (To Mr. Power) Last month you described it to be Mediterranean.

Power – That is the description given to me from the client. I wanted it to be more of the prairie style. With hip roofs, roof overhang, casement windows, and etc.

Schuyler – They spoke last month on how this would not fit in with the style of the neighborhood and I agreed. How did you address that in this exterior style of the house as to other houses in the area?

Power – We would be designing a vinyl clapboard house that is ninety percent of the houses in the area. My goal is to do a prairie style, hip roofs, casement windows of consistent size, massing with appendages around. The earlier design had a two story foyer. That is now a one story with one hip roof. Also, to break up the tall elevation, it is an appendage with its sown roof, that some would consider a three story. This elevation has now changed. This is the short side of the house as opposed to the long side of the house (referring to plans).

Discussion followed over plans.

Gochman – A-7 shows the rear east and downhill south elevation.

Riedy – Let us take this opportunity to turn the meeting to Mr. Gochman to discuss the five factors. After his presentation, I will ask for comments from the neighbors and I would like the Engineer and Architect to stay so they can answer the questions.

Gochman – The five issues we have to look at with respect to the area and depth is if there will be any undesirable change to the character or detriment to the properties. It will not cause an undesirable change or detriment by granting the area and depth variance. As shown on our property area listings that were submitted with the application, there are twenty four neighborhood properties listed and according to Mr. Power investigation, they all violate front, rear, and side yard setbacks. This particular house will not have any undesirable change to the neighbors. It will conform more than the other properties in the neighborhood that are in violation.

Riedy – Do you think these homes depicted are homes that were constructed before or after 1931?

Power – This home is not being shoe horned. We are not claiming these homes should not have been built. We are just pointing out that they have several problems. They are too close to the road and are substandard lots. I do not have dates regarding each of the properties and when they were built.

Gochman – With respect to whether the benefit sought can be achieved by some other method; We now have a situation of a lot that requires a depth and area variance and in order to put a house on it there is no other way to utilize the property but to get a variance. The next factor is if the area variance is substantial. This is a subjective issue. It is difficult to say what is substantial. We are asking for an area variance less than 20 percent. It is not substantial relative to the other adjacent properties that have violations in area, rear, and side yard setbacks, etc. We are showing comparisons of existing properties. That is something the Board needs to decide, if it is comparable or not. The applicants have reduced the side of the house to make it a two story instead of the original submission for a three story. The drawings submitted showed the location of the house would have a minimum affect on

the adjoining house site lines. With the trees you would have a minimum effect on the site lines. They also changed the orientation of the house and the size of the house is relative to the other houses. You would not have a maximum impact. There is also bedrock.

Noviello – I believe there is bedrock on the property. Most of this area does. I suspect if we go to trench along the east side of the road that is what we will find. I do not believe there is any upward of the pavement. It is my presumption there probably is in that area. You would only need a narrow trench. It would be more efficient to hammer it out.

Riedy – Your clients are proposing a two story structure?

Power – Mr. Gochman was not at the last meeting. This project was never presented as a three story. It was always a two story.

Riedy – So you are saying the choice was to go up as opposed to go wide. In order to make the reductions.

Power – Number one if it were a ranch it would cause more drainage and number two it would not be as efficient as a two story. Because of the orientation of the house, my clients now will not be able to take the solar gain at the southern exposure. That will not be happening with this change. We are not excited about this change because of those reasons.

Discussion followed over plans.

Power – The house at the top of the hill is two stories and there are others in the area that have three.

Gochman – With respect to whether it will have an adverse effect on the neighborhood - this project will clean up the vacant land that has been used as a dumping ground for other construction in the area. . We propose to clean it up and landscape. There was also concern about septic. As we discussed at their own cost and expense they will run sewer and connect it to the village system at the end of Riverview Trail. It will eliminate impact on the property and other properties in the neighborhood. The schematic drawings prepared by Mr. Noviello were given to the Board at the January 14 hearing. The last and final factor as to whether it was self created; The clients purchased in good faith with the idea of using the vacant land and building a primary residence and home for themselves. They have discussed with Mr. Power, myself, and Mr. Noviello, that they are willing to do anything to clean up, landscape, and utilize the house for their comfort.

Riedy – Some say the price they paid for the lot was very low \$65,000.00 at a time when lots are going for two or three times that amount of money. What is your response to that? Should your client not have been put on notice with respect to that?

Lydia Iokhvidov – Property Owner – When we purchased the purchasing agent gave us a presentation with a price. We are not concerned about the price. We did not actually think it was demeaning in value.

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Riedy – Did you look at any other property?

Iokhvidov - Yes.

Riedy – What Real Estate?

Iokhvidov – Prudential Real Estate Office?

Mr. Iokhvidov- We came from South Africa two years ago. I came here and my wife was still there. We started to look for property. I saw a couple of lots in this area. Not in Croton, but it was nearby.9A and we were concerned about if children came to the house they would fall. It was for \$80,000 in Cortlandt. I also looked at one nearby this property on Mt. Airy Rd. That one they were asking \$55,000. So we did not realize. To us that is a lot of money. Where we come from that amount of money would purchase a mansion.

Stephens – The real estate presented this as a buildable lot?

Mr. Iokhvidov- Yes. A buildable lot. We were surprised that there was problems.

Riedy – Any other comments? Anyone else like to be heard?

David Steinmetz – I represent the Lifschitz. – I will start with the applicant’s last point. I think this case is substantially a self-created hardship. I truly believe as we have just heard that these people may have been taken advantage of by someone. \$65,000 is completely and absolutely inconsistent with the cost of other lots in Croton. A \$65,000.00 lot with a view does not exist. The applicant has the burden of proof so you need to ask for hard evidence or ask us all to come back. He originally said he thought he had .82 acres. That is what he said last month. I remained confused as to what information he had from whom. The lawyer has not come forward to explain or the

realtor. If in fact the lot was purchased in good faith they had an obligation to do some basic due diligence. The reason we believe this is a lot that is an illegally created lot is Section 230-129 of the Village Code states that “No changes in a subdivision or a plan of a subdivision already approved shall be made without the approval of the Planning Board” There was talk at the last meeting and I asked them to contact me if they had any questions or any presentations. I was not contacted by anyone about tonight. For the record no one provided or contacted us with anything. as we requested at the last meeting. They also said there were a number of deeds and changes to the deeds and subdivision maps.

Riedy – There is a copy of a 1946 subdivision map and there is also a 1925 map. Those are the only two.

Steinmetz – For the record it also has someone’s drawings on it showing the shape of the lot was drawn in and the shape is different from the original. I want to submit it for the record. What we discussed at the last meeting, the deed, the Frankel’s deed and the 1946 sub-division prior to the changes that were made by the applicant. So, it will show what was formed on the map, is not what was actually purchased. There has been a concession by the applicant. That it was a properly reconfigured lot. Your own Code says you can not change lot lines and believe you have a legitimate building lot. I have not seen what Mr. Power compiled. I think 24 properties do not meet the setbacks. It is possible that every lot does not meet the setbacks. Tonight we are here for a lot area and Lot depth variance. Many of the lots comply with area and depth. My client’s property complies with lot area and depth. My clients would not need the variances for lot area and depth to construct a home. His lot is 19 percent substandard in area and 20 percent in depth. I do not know if there has been any further elaboration. I heard no presentation as to what would be required, what the nature of steep slopes is, that issue has kind of slipped away. This lot is topographically challenged at a minimum. I think they have a hole in the record with that regard. I commend Mr. Power on the nice and attractive drawings. There was a comment that a ranch would not be so easy to drain the property. It might be more expensive. I did not know that they would talk about the possibility of a ranch. Despite the fact it might be more expensive to pursue an alternative, is not a factor. Not to pursue an alternative, if there is an alternative that costs more, is not a basis to say we are not doing it. We cannot simply rule out a narrower or smaller home, just because it would be more or less beneficial to the applicant. As a lawyer, I can see the legal issues and the substandard Lot. For them it is about adverse impact. We asked for a site line study. If his plans show anything it shows the views are significantly impacted. I explained in great length at the last meeting about preserving quality and the importance of visual impact in Croton. If anything they presented exactly what Ms. Lifschitz presented at the last meeting. That is directly in their view. It is completely out of character on a lot that is substandard and self created. I urge the Board for the very

simple and entirely defensible reason that in fact it is an unlawful lot. I presented this at the last meeting and I have heard nothing about it tonight.

Kathleen Sutherland, 15 Riverview Trail – I want to answer some of the concerns that came up. (Ms. Sutherland read from a letter dated February 11, 2009, which she submitted for the record).

Ms. Sutherland expressed concerns with respect to the height of the proposed house at 35 ft. and how it will loom over her house and other houses in the area. Ms. Sutherland stated that her house was 25 ft. at the highest point. To give the Board a perspective of how her house is situated compared to the proposed house Ms. Sutherland submitted pictures to the Board and discussion followed over the pictures. The pictures were marked Exhibit-1 thru 4. Exhibit #1 – Picture of the rear of her home. Exhibit #2 – Showed the front area of her home. Exhibit #3 – Showed the west side area of her property. Exhibit #4– Showed a view from her patio facing the area where the proposed house will be.

Ms. Sutherland was asked to share the photos with the applicant and his attorney.

Sutherland – On page A-2c of the applicants plans it is a little misleading. I do not see them comparing homes as to size. My Exhibit #2 - is only 20 ft. 4 in. to the peak. My Exhibit #1 – Shows the back of the house that has a little side flat roofing. At the peak of the roof it is 11 ft. 8 in. The other two stories are 8 ft. from the rim of the house to the sidewalk. We tried to tie a rag on the tree to get a perspective but discovered it was only fifteen feet (referring to Exhibit 4 – Showing the visual impact from her patio to the area of the proposed house). With respect to drainage it will be a real problem. We are constantly battling water damage and some of it is due to the rock in the ground. We have spent thousands of dollars on landscaping to try and rectify it. My house is built into the ground. My bedroom is built into the hill. The excavation for the sewer line will cause significant noise and air pollution. I indicated at the last meeting that just drilling with a hammer can cause havoc. Just with Verizon's (upgrades) we had damage. Lastly, we are offended by the documents that Mr. Power submitted stating that we are in violation of the Zoning Law. I purchased my property in 1998. The house was in a state of extreme neglect at the time. There were other houses in the area in a much better condition with larger floor plans and more amenities. But, we selected our house for the peace and privacy it offered us with the wooded surroundings as well as the trails in the neighborhood which we value the most. I am not saying the proposed house will not be a beautiful dwelling. I just cannot see that type of outlandish construction in this area. I understand what they are saying about that property being a dumping ground. I

personally at one time cleaned it out and there are a lot of boulders, etc. in there. The wood piles are a result

Riedy – We are not focused on logs and boulders, we are here to review a request for a variance. Are there any other comments on how this application is going to affect your home?

Sutherland – No other comments. Thank you very much.

Susan Lifschitz, 4 Park Trail – I would like to stand before you as an artist. The problem I have is the view is obstructed. I have heard two Euphemisms tonight. Something about the prime view they saved. My comment would be along the horizon there might be a little view of the Hudson River that I might be able to view from his home, but they are the property owners of that property. A prairie type of home would be something along the line of Frank Lloyd Wright.

Riedy – Please discuss the concerns of how the impact of this proposed construction will impact your home and step away from how you would characterize the architecture.

Lifschitz – It is too large and the color would clash. The prime view that I would have would be an orange roof as opposed to trees or the view I have now.

Ms. Lifschitz submitted a picture of the view that she has now and stated that she once planned on constructing a studio in that location to inspire her artistry.

Discussion followed over photo.

Ms. Lifschitz – (pointing to the photo) indicated an area that had a steep incline and (again referring to the picture) stated “this parcel of land sits behind the house.

Lifschitz – Besides the interference of view I feel this land would be a loss to the community as it exists now. I now see a narrow strip of grassy lawn. We are only 25 ft. from this property. The layout of the land creates a V-shaped vista. Raspberries grow wild. There are tunneled openings used by the woodchucks, etc. As the “V” widens you can see out to the Hudson River, Croton Point and beyond. We can see the Tappan Zee Bridge now and that would be blocked. There is a quiet ambiance on our block. I hope that I can continue to photograph and paint what I see.

Tom Newman – 68 Park Trail – My view will be clipped. Not as bad as some, but it will be clipped. I was thinking that this plan is worse than the original plan. The last time we

spoke about the density. This plan will create a density. The narrow side of the house was facing the street; it is now facing Riverview Trail. That is a real gateway to the community and it appears as a larger, rather ominous rendition. I have a degree in design and architecture.

Mr. Newman continued to speak with respect to being sensitive to historical and fragile areas.

Newman – I think the biggest problem is what it will look like to anyone coming up Riverview Trail, it is a primary entrance-way. So, anyone coming up in this direction will be confronted with the realization of how could they let this happen? Do they not care about their community? We care very much and want to preserve the nature, the fabric, and the character, that still has the flavor of bungalows. There was a statement that it has become a vinyl siding community. I strongly urge, if anything is ever built there that it remain within the character, flavor, and the intention of why we are all there.

John Phillips, 18 Sunset Trail – I have lived here 23 years. I would like to explain that it is just a wooded hillside, not a dumping ground. All the houses in this area and the surrounding area were built in the eighteen hundreds. It was once called “The School of New Thought.” Some of the houses were built on the Mount Airy side that is characterized by the river and park trails. They had a real interest in the beauty of the Mt. Airy area and were interested in English cottages. If you want to call it a development, it is a far cry from a development. That was in the early 1920’s and 1930’s. There were a lot of artists and writers and progressive thinkers. They were kind of a patchwork quilt of their own imagination. Some bungalows were added onto. They still remain very modest dwellings. Mr. Salzberg’s property was an old cider mill from that generation in the 1920’s to early 1940’s. When I moved in it was mostly people who built those houses. Then families with kids moved in. It is a wooded hillside with wooded spaced houses with lots of wildlife, raccoons, skunks, woodpeckers. This is why the people who live there live there. I have a question for Mr. Noviello. What is the run of the sewer line?

Noviello – 800 ft.

Phillips – How long would it take to put a sewer line in?

Noviello – Two weeks to a couple of months. It would depend on the rock. It is hard to predict.

Phillips – Would it be affected by the seasons?

Noviello – Anyone could do it anytime of the year but prefer doing it during nicer weather.

Neighbor (unidentified) – What would this cost?

Noviello – The rock factor makes it too much of a range.

Riedy – That is irrelevant to this application.

Neighbor (unidentified) – I was just thinking of making it more transparent.

Riedy – Anyone else like to be heard?

Scott Horecky, 15 Riverview Trail – I have lived here 16 years. The Engineer, Mr. Noviello stated the driveway would be in compliance. Based upon my work I made a presentation last month and actually the driveway decreased in site distance. This would be rejected by the County of Westchester and I have here a document I have here (document submitted to the Board) that shows it would open the village to litigation as far as accident, personal injury, property damage, etc.

Riedy – What is this document?

Horecky – It is used when there is a new development or when someone proposes to put in a driveway it would show they are in compliance. I had my signature notarized.

Schuyler – So this was not done by a Traffic Engineer?

Riedy – So in other words this is your rendition that was notarized by you?

Horecky – Yes. To make a left turn they would need 290 feet and you only have 245 ft.

Riedy – I think you will agree that Riverview Trail is not a County road so you are offering your opinion with your particular expertise. I will submit this for the record and I will also give it to Mr. Gochman to comment. I am sure that as part of the building permit application process, that would be one of the issues they would have to address.

Horecky – It is all bedrock there. You cannot dig down six inches without hitting bedrock. Verizon covered the whole neighborhood to install a telephone pole. It is a severe situation as far as flooding goes. I did consult with the County and they said this property would need an extra variance for width. I did speak to Mr. Sperber, Asst. Building Inspector, (for the Village of Croton) and he said the calculations do not go that way, but I do not agree. I think you need a third variance.

Riedy – Assuming for the sake of discussion and that the applicant will need to go through the Building Dept. for a Building Permit then their review of the application would then

determine that they need a third variance and it would come back to us for that variance. I would advise that you send a letter to the Village Engineer and express your concerns to him with respect to this particular issue. I would encourage you to do that. But, we do not need to address that tonight. That is not before us tonight. The only discussion we are having tonight is what is particular to this variance request.

Riedy – Anyone else like to be heard?

Leslie Fabian – I am here to speak for the man who had to leave earlier. He wrote down his concerns and asked if I would speak for him. His name is Eli Pepper. His family was one of the first families to come here, so he is quite concerned. These are his concerns not mine. He had concerns with respect to the boundaries and how they do not conform. He said that most all the properties in the neighborhood were established before the Code was established. The little bungalow houses were built years and years ago. For most neighbors the original part of their house was built in the early 1930's. He says that this side of the hill would leave seepage. If you try to absorb additional water it would not get absorbed into the bedrock. He expressed concern about tearing up the major access road because it is used by school children. It is also used as an alternate route and Riverview Trail is also an access to the trails. If there is a Code for Zoning purposes he requests all of them be met and not revised. Sewage is also a concern

Riedy – That is outside the scope of this hearing as well and would need to be determined by the Village Engineer.

Leslie Fabian – I also have concern for this beautiful wooded lot and the views it will obscure. Re-orienting the house will not help. I am concerned about what the house looks like. It is not in context with the other houses in the neighborhood. The Prudential Agent clearly said to me at the time they were offering it, that it was not a buildable lot. The slope size is sub-standard. There is another lot that is for sale for \$400,000.00 which does not have a river view. I think their Real Estate agent pulled a fast one on them. There is no ground for a variance. Just because they purchased it does not make it a buildable lot.

Steinmetz – I am returning Mr. Gochman's February 4, 2009 letter. He met with his clients. There is nothing in this letter about a sub-standard, illegally created lot. The area property calculation that was presented shows 24 lots that were analyzed. Ironically, only four out of every twenty four meet zoning. The village knew it had an area that was

dominated by lots smaller than one half acre, but not more smaller. There was a reason it was put in the RA-10 Zoning District. Not one of them says it meets the depth violation. None of these lots violate. Because zoning changed afterwards does not violate. In fact they are protected.

Gochman – I want to correct the attorney. This is not a RA-10 Zoning District. It is a RA-25 Zoning District. This market has been terrible. It is a reduced market. I would say the building lots they looked at were on the market for a long time and got an upset price for it That would be the rational for their purchase price. I am just offering some opinions.

Schuyler – Mr. Steinmetz brought up, if the lot was legal or illegal. Both survey maps, the 1925 and 1926 survey map are not in line with the lines of either map. That is a pivotal issue for me. Do you have any information as to the metes and bound and if they have been approved by the Village as buildable lots?

Gochman – A-2 of the drawing you will see the metes and bounds description. The surveys and the sub-division; they changed the boundaries.

Several of the Neighbors – Who is they?

Riedy – I will not have shouting from the floor. We have been speaking cordially and will continue to do so.

Riedy – (To Mr. Gochman) Do you have knowledge that the Village Planning Board approved the change in the lot line or the Village Board?

Noviello – In addition to being a Licensed Engineer I am also a licensed surveyor. I think you had a sub-division in 1946 and then there was a lot line adjustment that often in the past is acceptable to do by deeds and the town has a say in it. I am saying this is probably what happened here.

Discussion followed with respect to what lot lines changed and in what year they changed.

Gochman – I do not have the deeds.

Riedy – (To Steinmetz) – Do you have any record?

Steinmetz – I said I did some research. To the best of my knowledge it was sometime after the zoning was in affect in the Village of Croton.

Power – The only land missing from that lot is land that was given to his client's lot. I suspect that lot line change was made to benefit his clients property.

Schuyler – That is a theory but, not necessarily the case.

Power – There is documentation that shows there was a lot line change.

Noviello - The burden of proof is for the applicant to come forward with it. Especially, when the question was posed last month and it is still not addressed.

Power –I was not here last month but, if you want to adjourn the hearing I would be glad to provide that information.

Gochman– I was not present at the last meeting either.

Noviello – I would like to respond to comments that were made by the neighbors. One issue from the down hill neighbors was drainage. Their explanation was that it currently drains down hill. You would expect that, it would naturally drain down hill. We will improve that problem so that it will go back into the ground. They also said it can't absorb water, but we know they have septic and it has to absorb water for the septic systems. There will be drainage systems to put water back into the ground and it will not affect the neighbors. I was the Chief Engineer for the County. I am also a land surveyor. I know how to do a site distance and nobody can do a speed time of forty miles per hour.

Noviello – Exhibit 6 – Shows the answer to the question with respect to if the Village Engineer will verify the driveway entrance is safe. We will make sure it is safe. Exhibit 5 – This picture coincides with ...look at A-2b – the house is kind of a U shape and referring to the wall in the picture that was submitted by the neighbors.....(discussion followed over plans & pictures). The house was oriented like this to preserve the view. Some of the neighbors concerns are legitimate and we are trying to address the issue of their view. I found they had canceled their appointment with us to discuss the preservation of their view by advice of their attorney. The proposed house will miss their view. These houses are not widely spaced from each other and many do have vinyl siding.

Riedy – We are not talking about vinyl siding verses clapboard...go on.

Power – The orientation was made to preserve the view.

(Interruption from Ms Lifschitz)

Riedy – Ms. Lifschitz, you had an opportunity to speak and there are other comments the attorneys would like to make specific to the neighbors concerns.

Gochman – Since the issue is whether we have a legal or illegal subdivision I would like to ask the board to adjourn the hearing so we can get all the information necessary to show how and why the configuration was changed, if it is critical to your decision.

Riedy – We will take that under advisement.

Hearing closed.

Stephens – Made Motion to grant a lot area and lot depth variance for a proposed one family dwelling according to plans submitted.

Schuyler – Second the Motion

Vote: 1-4 - Schuyler – In Favor
Stephens, Riedy, Olcott & Macdonald – Against the application

APPLICATION DENIED

Respectfully submitted

Janice Fuentes
ZBA Secretary
2/11/09

Draft filed: 2/23/09
Final Approval: 3/11/09

RESOLUTION

Vladimir & Lyudmila Iokhvidov have applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a Lot are and lot depth variance with respect to a proposed new one-family dwelling.

The property, at Riverview Trail, is located in a RA-25, District and is designated on the Tax Maps of the Village as Section 68.17 Block 1 Lot 13.

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 a detriment to nearby properties.

The proposed variance would have an adverse affect on the physical and environmental conditions of the neighborhood or district.

The variance requested was substantial.

The hardship was self-created. The Board did not feel they had to determine weather or not the property line had been changed and if that change had been approved according to Village Code, because its analysis of the five factors were sufficient to made a determination.

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

Stephens – Made Motion to grant a lot area and lot depth variance for a proposed one family dwelling according to plans submitted.

Schuyler – Second the Motion

Vote: 1-4 - Schuyler – In Favor

Stephens, Riedy, Olcott & Macdonald – Against the application

APPLICATION DENIED

2/11/09

