

**DRAFT FILED: 7/22/09**  
**FINAL APPROVAL: 9/9/09**

**VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS**  
**MEETING MINUTES OF JULY 8, 2009**

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

ALSO PRESENT: Joseph Sperber, Asst. Bldg. Inspector

ABSENT: Richard Olver – Village Board Liaison

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

Announcement of fire exits to all in attendance of the meeting.

**HEARINGS:**

**Joseph Eng, 20 Morningside Drive. Located in a RA-9 District and is designated on the Tax Maps of the Village as Section 79.09 Block 6 Lot 40. Request for a total side yard variance with respect to a proposed open front porch.**

Joseph Eng – The lot size is approximately 50 ft. x 152 ft. We are interested in building a front porch. We have lived here for two years. The proposed open front porch will have a 9 ft. side yard setback on the left side and a 13 ft. side yard setback on the right side. It will be the same width of the house but it will be coming out 10 ft.

Riedy - Referred to Section 230-33 of the Village Code with respect to setback requirements for a RA-9 District, where it requires a total side yard of 30 ft.

Riedy – Do you have a Certificate of Occupancy for the house?

Eng- Yes. It was built in 1954.

Stephens – What is the purpose of the porch?

Eng – Esthetics and to add character. We are usually out in the front yard anyway and for visual presence to the front of the house.

Macdonald – Are you planning on leaving the porch open? Will there be screening?

Eng – No.

Schuyler – Have you spoken to your neighbors at number 17, 24, and 25?

Eng – There have been no objections from the neighbors.

Schuyler – This will not be a deck it will be a covered porch. Correct?

Eng – Correct.

Stephens – What is the total variance you are looking for?

Eng = Total side yard of 8 ft.

Riedy – No. It is a total variance of 21.8 ft.

Discussion followed over measurements.

Riedy – It will be an 8.2 ft. total side yard variance. After the porch is built it will still be a 40 ft. setback from the street. The Code states that the front yard setback needs to be 25 ft. in depth. They have far more than the 25 ft. that is required by Code.

Riedy – Any other questions?

There was no reply.

Hearing closed.

Stephens – Made Motion to grant an 8.2 ft. total side yard variance for an open porch according to plans submitted.

Macdonald – Second the Motion

Vote: All in favor – 4-0 – Stephens, Macdonald, Riedy, Schuyler

**Peter Tsagarakis/Rakis Inc. Located in a RA-5 & C-2 Districts and designated on the Tax Maps of the Village as Section 79.09-001-52, 53, & 55. Request for a Special Permit pursuant to Zoning Ordinance Section 230-52B, with respect to Lot #'s 52 & 55 and for the purposes of commercial parking lot usage on residentially zoned lots. The applicant is also seeking an area variance to allow the removal of a metal guard rail between lot # 52 and Lot # 53 to allow ingress from Lot # 52 to Lot # 53 in furtherance of its proposed Amended Site Plan.**

Gerald Klein, Esq. - Represented Peter Tsagarakis/Rakis Inc.

Klein – We have made an application for what in essence, is three issues, all of which are related. We previously went to the Planning Board for recommendation, which I believe you received on February of this year. We went to the Planning Board for the site plans. The rear parking area which is adjacent to Bungalow Road, was previously a subject of a five year special permit, which expired a number of years ago. The sole purpose of that permit was to allow for commercial parking in a RA-5 Zone. We separated the rear parking area from the front. The guard rail separates the rear parking area from the front because Code says you cannot have a driveway between a RA-5 premises and a C-2 premises. That is what we had to comply by. That has remained all these years. In our discussions with the Planning Board, it became an issue with respect to our Planning Board approval being subject to my client getting a variance for the removal of the guard rail. In removing the guard rail there will be a better flow of traffic in and out of the parking lot and we will keep it only a right turn going into the direction of So. Riverside Ave., for safety reasons, and traffic flow. The Planning Board suggested the trash compactor and bin located almost directly ahead as you come thru the main driveway into the parking lot, be placed adjacent to Hudson Street, so it will be out of the way for cars pulling out of the parking lot and it will make it easier for the trash collector and safer for the customers. We were willing to take that suggestion. That will be part of the site plan process. We understand the different functions of the Planning Board and the Zoning Board. Also, you might be aware, that there were two homes immediately behind the diner, which both were owned by Mr. Tsagarakis. Both were in disrepair. They rehabilitated the home farthest from the diner and the other one was demolished and is currently vacant land. The variance parcel is part of our third request for a special permit to allow parking in that area as well as the area adjacent to Bungalow Road.

Discussion followed over plans.

Schuyler - What lot are you talking about?

Klein - Lot # 55.

Klein – The thought regarding that parking area is that it will be for employee parking. So that the number of trips in and out of that area will be reduced due to the eight hour shifts of the employees as opposed to the customers one half hour in and out again. We have agreed to provide screening on the retaining wall and the Hudson Street side of the premises. Our overall goal is to get an amended site plan from the Planning Board. We are conversant with the idea of street lighting that will allow for the lighting to be directed within the parking lot and not towards adjacent areas. We are looking for the rear parking lot under the original special permit that was granted and expired and to remove the guard rail and to have Lot # 55 also, receive a special permit to allow parking in that area as well. That is why we are here.

Riedy – As you said Mr. Klein, this is an application and you are making an appearance in 2009, before three Boards, the Waterfront Advisory Committee, Zoning Board, and the Planning Board. We received a copy of the February 13, 2009, Planning Board Memorandum with respect to the application for the two special permits and the variance and lighting issue. There is a threshold here in terms of looking for a site plan approval that is subject to the SEQRA Act. It is my understanding after consultation with the Village Engineer, that there is to be a designation of a lead agency to coordinate a review of your client's proposal. The threshold issue for us is whether we have any objection to the Village Planning Board declaring itself, lead agency. Assuming we have no objection to that, then this matter will be referred to the Planning Board and they would then hear the application with respect to other statues of the Village Code. Then assuming there is a negative declaration of the impact, that being the Waterfront Advisory Committee, then you will come back to us to reach a final decision with respect to the special permit and the variance. You will be given an opportunity to make a representation before the Zoning Board and we may ask questions, and raise questions with you, but you understand there will be no decision this evening.

Klein – Correct.

Riedy – We will also be glad to hear from any member of the public and you would also have a chance to respond. In the February 13, 2009, Planning Board Memorandum, it referred to lighting. I have concerns about expansion of the parking and lighting going into adjacent properties.

Klein – We do have a lighting consultant and we are aware that the technology is available for having direct light. That was a major discussion before the Planning Board and that information will be available in a very specific manner, but I do not have it this evening.

Riedy – Requested Mr. Klein to submit any information he may have to the Zoning Board with respect to the lighting and to also expand upon the comments he made about the trash compactor and dumpster in the same enclosed area.

Klein – As you enter through the South Riverside area and if you were to proceed directly towards the guard rail, it is slightly to the left. The reason it has been there all these years is to allow for an easy ingress and egress for the vehicle that comes to the rear of the restaurant towards Hudson Street.

Stephens – There will be no access from Hudson Street?

Klein – No. It is not as if we asked to place it there in that one important location, it was requested by the Planning Board.

Riedy – Lot # 55, how many parking spaces will you have?

Klein – Ten.

Riedy – Two being for employees only?

Klein – I do not know how many will be for employees only.

Riedy – that would be something that we would like to discuss at the next meeting.

Mr. Sperber, Asst. Bldg. Inspector – Stated that employee parking was designated on the plans submitted to the ZBA with the applicants ZBA application.

Riedy – So, it is the intent that it will be for employee or customer parking. It will not be for loading or unloading.

Klein – Correct.

Stephens – You will be increasing the parking by how many spots?

Klein – Nine.

Stephens – Employees?

Klein – Yes.

Stephens – And presently how many parking spots do you have?

Klein – Forty four (44) existing and the proposed plan will have fifty four (54) .This will help relieve the problem of congested parking.

Stephens – What is the capacity of the restaurant?

Klein – I do not know. I will get the information for you.

Stephens – Sometimes it is computed by the square footage.

Klein - There is no intent to change the interior of the diner. Fairly recently there was a change to the interior. It is just an upgrade of chairs, tables, etc.

Riedy – One of the other issues in the Planning Board Memo was plantings. One of the challenges is when you look at Lot # 55 and Lot # 56; Lot # 56 is single family zoning. That strip is only 3.4 ft. wide. I would be interested to know when you come back to us, where the location of the proposed lighting will be and what specific plans you are thinking of. Because of the elevation of the home on lot # 56 we need to be sensitive to the people pulling into the parking space on Lot # 55 and their headlights going directly into the homes.

Klein – We would certainly be glad to share the plans for this with you.

Macdonald – Are going to excavate Lot # 56 lower? It sticks up three feet and another three feet for the other lot plus there is a wall there.

Discussion followed over plans.

Klein – Yes, it does show a wall.

Macdonald – Do they have a grading plan yet?

Klein – No.

Schuyler - There are additional concerns that vegetation be removed for sight vision distance.

Klein – The main entrance will be on Riverside Ave.

Discussion followed over plans with respect to the direction of traffic in and out of the parking area.

Stephens – I am concerned that people will decide to turn around by the playground on Bungalow Road and come around again.

Riedy – (To Joseph Sperber, Asst. Bldg. Inspector) – How long is a special permit valid?

Sperber – I do not know if it carries a mandatory term. Section 230-52B does not specify a term. It would be similar to what the Board did with the Amy Cotton application. The Board would impose it and they would keep renewing it for as long as they feel comfortable.

Riedy – So that might be what we may do here. I do not see an effort to make the restaurant wheel chair accessible.

Stephens – I contacted the Fire Inspector awhile ago with respect to this.

Riedy – I have watched people being turned away because it is not handicap accessible. This is something we would like have addressed for the special permits.

Riedy – Anyone else like to be heard?

Harold Lockwood, 11 Hudson Street. – I have lived here 32 years. The site plan included having a chain be put across there and after the removal of the house on Lot # 55 was completed it was to be maintained. They were supposed to install trees, etc., and nothing has been put in. They were supposed to close it off with a chain. I also do not think that site plan was ever completed. The other problem I have is that the cost of houses has come down. The unsightly lot with parking will add to this decline. Is the Zoning ready to allow the same privileges to the Harmon area by allowing him to use commercial parking in a residential area? If you OK this application and someone in Harmon wants to allow train commuter parking in their private lots they can. You better be careful with this. You also discussed the handicap ramp. That was brought up seven years ago and he was going to go the back length of the diner with that. He now wants to put the trash compactor there. Even though the Planning Board wants them to put it there, I am not so sure if it needs to be a certain amount of feet away from the building.

Riedy – This is a SEQRA issue and it is a state outlined procedure. It is not being requested by the applicant. It is simply the procedure under the State Law.

Lockwood - I just wanted to bring it to your attention. They are taking away from the residential looks of that area.

Riedy – Your property is located at 11 Hudson Street. So, if you go east on Hudson Street, how far are you from the corner?

Sperber - I think he is Lot # 59 or Lot # 60 as shown on the plans before you.

Lockwood - The main concern is they did not follow through with the original site plan. We have forty foot rails on Hudson Street and they back into Lot # 55 to make that turn. I am very worried that if they get the OK on this it will be the same problem all over again.

Riedy – I suggest you call the Village Engineer’s office every two weeks or so to see when it will come before the Zoning Board again. New notices are not required.

The Zoning Board Secretary informed Mr. Lockwood that all Board Meetings are also posted on the Web Calendar.

Charles Henley, 7 Hudson Street – I am the second house on the corner coming from Elm Street. I would like to show you a few pictures I took, mainly of Lot #55. The picture shows a post grate that was installed in late February with a white rag on it to prevent people from parking on the grounds. That was in response to a letter I wrote regarding that lot being used for commercial use when it is a residential lot. Sadly, I found out that this is an old problem. I have the Planning Board minutes from 2004. It was also passed onto the Board of Trustees later on. This time they were to also address the handicap access. I want to speak to what has already been addressed tonight. I am not aware of the site plan approval process, but I am disturbed about this planning process. The first special permit that expired, no one knew about it. I oppose this because this is a neighborhood for children and there is a duck pond and playground in the area. We have to walk around with no sidewalks near the diner and then across the street to the duck pond. Some use the Bungalow Road parking lot when they go to the duck pond. I do not think this is a safe situation. They cannot see very well when cars are coming out of there. I also opposed the guard rail being removed unless you wanted to provide for a more permanent commercial zone. I do not think the parking is the issue here. If parking is lacking I think it can be addressed by the abundance of parking spaces across the street at Croton Commons. A sign could be placed for free parking on Riverside Ave. It is an encroachment of commercial parking and encouraging it in a RA-5 district. The Planning Board is suggesting the trash bins be in a specific place. That is moving the trash bins closer to my house. When you have large garbage bins, especially in the summer, and when I am cooking outside, that is not so pleasant. 6 Hudson Street is a commercial lot

and I am a bit peeved that the village does not enforce their own parking codes. I think the owner is not concerned because of this and I do not think he is the most sincere resident about parking. I do not know if the retaining wall is an attempt to change the diner footprint. The meeting minutes of March 2004 did attempt to do just that in trying to change the footprint. He has shown in the past an interest in expanding the diner and I think that will happen sooner or later after this application and I will be opposed to that as well. With respect to Croton in general I think that once these decisions are made with respect to this property, that other people in the community will be finding it coming to their neighborhoods soon as well. Who would I call and what can I do about it, if I see more than two cars parked there and I see employees and customers walking out of the parking lot? I am interested in that and also how this will affect the Harmon Redevelopment Code. That is all I have to say at this time.

Riedy – Mr. Henly, you are a village taxpayer and if you do not feel that village personnel are being responsive to your concerns, contact Abe Zambrano, Village Manager, and if he does not address your concerns to your satisfaction, there are other members of the Board. That is your redress. I suspect any number of them, have had an issue that comes up, but I have found the Village Board and others to be quite responsive. They have long agendas and lots of responsibilities.

Henly – OK.

Riedy – I also suggest you check the web site for the Zoning Board meetings. I think the Planning Board is meeting this coming Tuesday.

Correct, Mr. Klein?

Klein – I am not sure right now.

Mr. Michael Calcutti , 10 Hudson Street. - I am in the middle of everything. When they first installed it I asked the village if it could come down. They said they put the rail there so no one would come to where the playground is. When he put the railing in the tree roots were sticking out of the bank and they have never been fixed. They just put a little wall on the bottom. I can hear the dumpster truck. The Noise Ordinance does not cover the trucks coming in that time in the morning. Go down and check that and you will be surprised at what you see.

Riedy – Because we will not be reaching any decision at this point, it is not necessary for you, Mr. Klein, to respond at this time. But, I advise you to take the neighbors concerns into account.

Mr. Klein – I will.

Hearing adjourned until further notice.

**Issue of Lead Agency**

**Planning Boards intent to be declared lead agency with respect to Peter Tsagarakis/Rakis Inc. Section 79.09-1-52, 53, & 55.**

Stephens – Made motion consenting to the Planning Board of the Village of Croton-on-Hudson to be the Lead Agency with respect to this application. The Planning Board will be responsible for SEQRA, Water Quality Control, Environmental Impact, Traffic Study, lighting survey and the impact on neighbors. The Planning Board will have no authority to grant the variances or special permit. This application will be referred back to the ZBA by the Planning Board at a later date for the ZBA variances and special permits necessary for this application.

Schuyler – Second the Motion

Vote: All In Favor – 4-0 – Stephens, Schuyler, Riedy, Macdonald

Respectfully submitted  
Janice Fuentes

7/8/09

## RESOLUTION

**Joseph Eng.** 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 open front porch.

The property, at 20 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 40.

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

Variance requested was not substantial.

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

Stephens – Made Motion to grant an 8.2 ft. total side yard variance for an open porch according to plans submitted.

Macdonald – Second the Motion

Vote: All In favor – 4-0 - Stephens, Macdonald, Riedy, Schuyler

7/8/09

**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.**