

**DRAFT FILED: 9/21/09**  
**FINAL APPROVAL: 10/14/09**

**VILLAGE OF CROTON-ON-HUDSON, ZONING BOARD OF APPEALS**  
**MEETING MINUTES OF SEPTEMBER 9, 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 PM

Riedy - Announcement of the location of fire exits to all in attendance of the meeting.

**HEARINGS:**

**Jorge Peralta, 31 Old Post Road North. Located in a RA-5 District and is designated on the Tax Maps of the Village as Section 67.20 Block 3 Lot 30. Request for variance from Section 230-9(10) (c) (1) & (2) of the Village Code with respect to an existing above-ground swimming pool.**

Peralta – I am here to apply for a variance for an existing above-ground pool. When it was installed there was a mistake made because it did not meet the required setbacks for a pool.

Riedy – When was it installed?

Peralta – Two or three years ago. I did not get enough information at the time or else I would have done it right.

Riedy – How did it come to light that you were in violation?

Riedy – How did it come to light that you were in violation?

Peralta – My house caught on fire and the fire inspector saw the pool and noticed it was in violation. Otherwise, I thought it was OK. I thought I did not need a permit, but I had the wrong information.

Riedy – Did you install the pool yourself?

Peralta – No. I purchased it from Orange County Pools. They installed it.

Riedy – (To Mr. Sperber, Asst. Bldg. Inspector) – What are the rules about fences for pools?

Sperber – Barriers around pools are needed. He will have to apply for a permit and submit specifications for the pool and the decking and indicate the materials that are being used. He would also need to ensure that the barrier meets the New York State Codes, with respect to fencing & barriers for pools. Such as, self closing, self latching, and if it meets the height barriers, etc., before we will be able to approve a permit or issue a Certificate of Occupancy. There is also additional work he will need to do with respect to electrical inspections and certificate of compliance from a Board of Fire Underwriter. He will also need to install an alarm system that is put in the pool so in case someone happens upon the alarm will be triggered and people will be made aware of it. From the pictures he submitted with his application it shows that a lot of the barriers appear to be in compliance.

Stephens – Which picture shows that?

Sperber - There is a deck that is part of the pool and a chain link fence.

Discussion followed over pictures from the applicant's submittal.

Sperber – He may need to only have a self closing, self latching gate to meet compliance as far as barriers. The fence can go right on the property line. It needs to be Code compliant as related to pools. It does not have to be right around a pool perse, as long as it encloses the pool. There are other Code compliances with respect to fencing.

Schuyler - The garage that is shown right on the property line in front of the pool, there is no setback issue with that?

Sperber – Not sure. One point I would like to make is that the pool is an accessory structure and normally an accessory structure requires only five feet from the property line. However, with pools a ten foot setback is required.

Peralta – I spoke with my attorney and she said someone told her five feet.

Sperber – All other accessory structures can have five feet. But, a pool requires ten feet.

Peralta – The garage is something that was there when I purchased the property. The garage I have done nothing to it.

Sperber – I would have to check into the legal status of the garage.

Stephens – So in order for him to meet the ten foot setback for the pool he would need an eight foot variance?

Sperber – Yes. That is correct.

Olcott – Is he OK with the rear yard setback?

Sperber – Yes.

Schuyler – The survey he submitted with his application shows a proposed road. Does that road exist?

Riedy – I think that is a paper street.

Riedy – Since swimming season is now over, may I suggest, that we adjourn the hearing until next month to give the Engineering Dept. a chance to look to see if there is a Certificate of Occupancy for the garage. If not, we can then include the variance request for the garage with the pool request. Would you be open to that?

Peralta – Yes. I agree to that. That is no problem.

Riedy – That way you can address all of the issues with respect to your home.

Anyone else like to be heard?

Larry Keon – Upper North Highland Place. I have no objection to the pool or the variance. I would just like to know where the water be emptied? He is adjacent to my property and if he empties the pool it will go down towards the road. If it comes down on

my side there is a drain and chlorinated water will soak up the land where there are large pine trees.

Peralta – The pool we do not empty. If I empty it I will hose it through my property. I have a French drain that goes from my house to the street.

Riedy – How many gallons does the pool hold?

Peralta – About three thousand gallons. It goes to my driveway. It does not penetrate the ground it just goes to the street. If I have to call a tanker to empty it I will. I have been doing that a couple of years and it has been fine.

Riedy – Anyone else like to be heard?

There was no reply.

The Board unanimously agreed to adjourn the hearing until further notice in order to give the Asst. Bldg. Inspector time to review the village records to determine if the garage will also require a variance.

Hearing Adjourned until October 14, 2009.

**Richard Charney, 66 Nordica Drive. Located in a RA-25 District and designated on the Tax Maps of the Village as Section 79.10 Block 1 Lot 11. Request for a front yard variance with respect to the removal of an existing carport and a proposed two car garage and office space attached to existing house.**

Sid Schloman, Architect - Dr. Charney is my client. The application before you is to remove an existing carport. There is an existing one story house with a detached carport.

The carport is an accessory structure that was built towards the front yard. The variance is for the proposed removal of the carport and construction of a structure that will then be attached to the main dwelling by a breezeway that will be connected by the roof. The garage will be a two car garage with a studio office.

Stephens – The only attachment will be from the roof?

Scholman – Yes. Has everyone visited the site?

The Board unanimously stated that they visited the site.

Discussion followed over plans, etc.

Riedy– Marked the exhibits for the application.

Scholman – The carport is leaning and in much need of removal.

Riedy – How long has your client lived there?

Scholman – Maybe, ten years. I am guessing. I can check.

Riedy – It is hard to make an argument that something should be removed and they have lived there ten years and never fixed it.

Scholman – He is now getting married and he is now renovating a little bit. The variance in question abuts the Croton River and placing it anywhere else on the property would be impossible. This is the location that is allotted for any careful development. Why he has not maintained it or removed it I do not know.

Riedy – Why is the office part of his plan?

Scholman – I do not think it is an office for patient's to come and go. It will just be a den/library, away from the primary residence.

Riedy – You are talking about a significant expansion and there will be renovations inside the house. Correct?

Scholman – Not really. There will be interior renovations but the footprint will not change. We will extend the room to connect it to the garage to protect them from rain. The new construction is the garage and office space where the carport now exists.

Stephens – Exhibit C – Show me where the deck will be.

Scholman – (Referring to plans) Here, on the lower left side will be the front porch and a deck and there will be the garage and the office. We will extend the existing three foot

Page -6-  
ZBA Minutes  
9/9/09

overhang with stone column here (referring to plans) and approximately one foot above grade there will be a small deck as a connection.

Stephens – For all intent and purposes that part of the driveway will be eliminated. Correct?

Scholman – Correct.

Stephens – My concern is if they use it for an office there will be no place to park or pull in.

Scholman – He will take down the fence in this area (referring to plans). He will have off-street parking on the driveway as well. A portion of the fence in the lower area of the driveway will be removed. We will stay in character of the existing stonework on the existing house.

Stephens – So the circular driveway will no longer be a circular driveway? It will go into the new garage? But, if he has an office there I think I am seeing a potential problem with parking.

Sperber – With respect to a problem with traffic flow there is no Zoning Ordinance. But, they have to provide two off-street parking spaces. According to this application they will have that. Also, they are calling it office space but he will have to comply with the Code with respect to the requirements for a customary home occupation. But, that is not what he is applying for here.

Macdonald – Will the garage be heated?

Scholman – Yes.

Macdonald – What kind of heat?

Scholman – Not sure yet. It will comply with the Residential Code of New York State.

Macdonald – Why can't he put the garage on the side?

Scholman – There is a steep slope there.

Discussion followed over plans and the location of the steep slopes.

Page -7-  
ZBA Minutes  
9/9/09

Schuyler – The deck and the porch will be along the side but, the back of the structure will also go down the slope.

Scholman – If we were to build a garage in the back there, it would require mega steel beams. This way we will disturb less soil and need fewer piers. A deck is a lot easier to build in that area than a concrete slab for a garage.

Schuyler – How tall is the existing carport?

Scholman – Approximately thirteen feet and the new garage will be approximately fourteen to fifteen feet to the ridge.

Stephens – When was the house originally built?

Sperber – The original construction of the house was in 1965.

Scholman – As far as occupancy, if you were to ask him he might agree to re-work the plans for the library or den and agree not to see patients.

Stephens - That is not what we are asking.

Scholman – It will add street appeal and function and be esthetically pleasing.

Olcott – Will you need a steep slope permit as well?

Schulman – It might. But, getting the variance is the first step.

Macdonald – Have you thought of relocating it back from the street?

Scholman – I did not want to relocate or widen the existing curb cut. If we switched it we would widen the whole curb cut itself. So, we did not give that a thought to that, no. The existing setback for the accessory and breezeway we are asking for the same relief. It does become part of the primary dwelling so that is why we are asking for the 33.3 ft. relief. It will make it nicer and more functional.

Riedy – Facing Nordica Drive; on page three showing the front elevation, the proposed office is sixteen feet wide and the proposed garage is sixteen feet wide. Then how long is

the house? I am thinking about esthetics. The house is about fifty feet long, I would think.

Scholman – It is over sixty feet.

Discussion followed over plans.

Riedy – My thoughts as far as aesthetics, it is a residential street. We will have an office and a double garage and 60 ft. of fence according to what you are saying. Is the fence going to remain in front of the house?

Scholman - I think he will want some privacy there. He will be removing a portion of the fence to get in and out of the driveway. It will not appear as a sixty foot mass.

Riedy – Will they be visible from the street?

Scholman – As you are approaching it, it will be visible. If the gates are not open it will not be visible until you go to the curb cut.

Sperber – After going through the file, it appears that when the application for the building permit came in, it seems the carport was part of the original plans. They need a variance because in that point in time they did not need the same setback dimensions because it was not attached to the house. They need to get a variance because the proposed project is beyond the front of the primary structure. They already have a variance for the carport but they sited the carport differently according to the topography shown for the carport at the time.

Riedy – Anyone else like to be heard?

There was no reply.

Hearing closed.

Olcott – Made motion to approve the variance request for a 33.3 ft. front yard setback from the street.

Stephens – Second the Motion

Vote: 5-0 – Against the application

## **APPLICATION DENIED**

Respectfully submitted

Janice Fuentes  
ZBA Secretary

9/9/09

**RESOLUTION**

**Richard Charney**, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, request for a front yard variance with respect to the removal of an existing carport and a proposed two car garage and office attached to existing house.

The property, at 66 Nordica Drive., is located in a RA-25, District and is designated on the Tax Maps of the Village as Section 79.10 Block 1 Lot 11.

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 an undesirable change to the character of the neighborhood.

The proposed 33.3 ft. variance request is substantial.

The proposed variance will have an effect on the physical conditions of the neighborhood or district. There were concerns with respect to safety and ingress and egress into the driveway and parking with respect to the proposed office space/library/den.

The hardship was self created.

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

Olcott – Made motion to approve the variance request for 33.3 ft. front yard setback variance from the street.

Stephens – Second the Motion

Vote: 5-0 – Against the application

**APPLICATION DENIED**

