DRAFT FILED: 4/20/10

FINAL APPROVAL: 04/14/10

VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS MEETING MINUTES OF APRIL 14, 2010.

MEMBERS PRESENT: Seth Davis, Chairman
Rhoda Stephens
Doug Olcott
Roseann Schuyler
Alan Macdonald
ALSO PRESENT: Joseph Sperber, Asst. Bldg. Inspector

Meeting came to order at 8:00 PM

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

Davis – Announced for the record that ZBA Member, Rhoda Stephens, has been re-appointed as a ZBA Member by the Village Board.

HEARINGS:

Peter Tsagarakis/Rakis, Adjourned until 5/12/10: 6 Hudson Street, & 215 So. Riverside Ave. & Bungalow Road are located in a RA-5 & C-2 Districts and is designated on the Tax Maps of the Village as Section 79.09-1-52, 53, 54, & 55. Request for a Special Permit pursuant to Zoning Ordinance Section 230-52(B), with respect to Lots #52 & #55 for the purposes of commercial parking lot usage on residentially zoned lots. The applicant is also seeking an area variance from Zoning Ordinance Section 230-49(c) to allow the removal of a metal guard rail between lots, #52 and #53 to allow vehicle access between the residential and commercial zoned lots in furtherance of its proposed amended sit plan. This Hearing will be adjourned until May 12, 2010, at which time the application will be re-noticed.

Hearing adjourned until May 12, 2010

Jerry Kugler & Leah Ross Kugler, 6 Giglio Court. Located in a RA-40 District and is designated on the Tax Maps of the Village as Section 67.16 Block 2 Lot 31. Request for a side yard and total side yard variance with respect to a proposed Addition/Renovation to existing house

Jerry Kugler – As requested by the Board at our last meeting I have submitted revised plans with respect to lines of site. The Boards specific concerns were with respect to the dimensions not shown on the site plan and the addresses of the adjacent houses. The critical dimension was the one showing the height of the proposed construction. I also applied for and received a survey for 3 Giglio Court, the house that will be directly affected by me. It also establishes their site lines. (Applicant referred to Sheet 5 of the Plans). There is also the topography shown on the survey and pictures that were taken from his deck at a point where the proposed addition will be and showing the sight distance from the applicant's property to the neighbors. The applicant also referred to a three dimensional model that he submitted

for the meeting and referred to the existing house and existing garage shown on the model to establish height for the proposed "as of right" addition. The applicant further requested the board to envision the site distance without the chimney that was shown on the model.

Stephens – Suggested the applicant label his exhibits as Exhibit A for the proposed addition and Exhibit B as the existing structure.

Kugler – Referring to model: These trees are filled in quite a bit because it is now turning green at this point, so the view is obstructed by the trees this time of year.

Olcott – I have a clarification on the Site Plan. The site plan states on the Zoning Table that the required total side yard setback is 50ft. but, I think it should be 80 ft.

The ZBA Secretary was requested to make the correction for the record that the Total Side Yard Requirement is 80 ft.

Kugler – It is shown on the application that we submitted. (Discussion followed over site plan). The house is pushed as far back as possible on the site plan. The footprint of the house never changes.

Stephens – The pictures you submitted were very helpful.

Kugler – Thank you.

Macdonald – If you get this variance, what will stop you from building over this at a later date and blocking the views?

Kugler – I have no intention of doing so. You can make it a condition if you like.

Davis – But, he would be allowed to do that as of right.

Kugler – if you look at the section that shows what is allowed for height, what I am proposing will not go above 26 ½ ft. above which is at the highest point and is lower than what is required. But, I am fine if you want to impose a condition. After all, I am going through this to protect my neighbor. I believe that Mr. Olcott made a point. We are still making the 61 ft. between the properties.

Davis– any other questions?

Schuyler – What eye level measurement was used for height view as opposed to any eye level?

Kugler – Five feet.

Macdonald – That drawing, you do not give a line of site. You give a level site. What is the site down to the river?

Kugler –The tree line sight is why we used the photo because that is the one that told where the real sight lines were.

Macdonald – How tall was the photographer?

Kugler - That was me. I am 5 ft. 11

Davis – Anyone else have any questions?

There was no reply.

Hearing closed.

Stephens – Made Motion to grant a side yard variance of 10 ft. and total side yard variance of 29 ft. According to revised plans submitted on April 14, 2010, and with the following condition:
In view of the fact that the applicant requested this variance to mitigate adverse impacts on his neighbor's view of the river and due to the as of right proposed construction, this variance will remain in effect as long as there is no additional construction and with the condition that no future renovations of the house be made above the roof line as shown on page 5 of the elevation plans that were submitted and prepared by Peter Cole and dated April 14, 2010.

Olcott – Second the Motion
Vote: 5-0 – Stephens, Olcott, Davis, Macdonald, Schuyler.

Robert Coxen, on behalf of Norma Curtin, 1 Whelan Ave. Located in a RA-5 District and designated on the Tax Maps of the Villages as Section 79.13 Block 3 Lot 38. Request for a side yard variance with respect to an existing enclosed porch and trellis.

Seth Davis, ZBA Chairman – Robert Coxen and I were high school classmates and I have known him a long time. I think he would agree that I would be quite capable to vote impartially on this application.
Robert Coxen – I agree.
Coxen – I have pictures I would like to submit. There was an open porch in the back of the home on 1 Whelan Ave. The porch was enclosed in the mid 60's by my father. My mother passed away and as we were preparing to sell the property it was found that the porch was closed without any permits. It is too close to the property line. The pictures will show a photo of the house and the porch begins here and here.
Discussion followed over pictures that showed structurally where original porch ended and the existing construction to close the porch, both external and internal. It also showed the distance between the property line and neighbor's property lines and side views.
The applicant submitted to the Board a letter that was prepared by his oldest brother who stated that it was originally an open porch and his father enclosed it. He was 12 years old at the time it was enclosed.
Coxen – The porch was always there. My father just enclosed it.

Mr. Coxen submitted an affidavit from Norma Curtin, stating Robert Coxen had her permission to represent her in the application.

Macdonald – Is there heat?

Coxen – No. No plumbing or heat.

Coxen - What I am asking for is a variance because we do not meet the setback requirements and we never had a permit to build.

Schuyler – The letter from the property owner at 62 Cleveland Drive, in approval of the application?

Coxen – I did not see the letter.

Letter submitted to Mr. Coxen for his review.

Coxen – The house was purchased in 1939.

Schuyler – is there electric on the porch?

Coxen – Yes. What would have been the outdoor light?

Stephens – What would happen if we denied the application?

Coxen – We would have to knock down the roof, walls and all the concrete. It would be quite a job, because I can recall my brother building the extensions of the cement.

Schuyler – and the house has already been sold?

Coxen – Yes.

Olcott – They had no title issues to close on the mortgage?

Coxen - The new owner has agreed to purchase as is, with or without the variance. Definitely the new owner will be impacted by this decision. I will support the new owner. It will cost thousands of dollars to remove it.

Olcott – She has no title issues to close on the mortgage? It made me think of the porch again. My father was also the local barber.

Davis - Any other questions?

There was no reply.

Hearing closed.

Davis – Made Motion to grant the variance as follows:

During deliberations it was found that the amount of variance the applicant was requesting was incorrect. The Board agreed to amend the application to grant a 1.7 ft. side yard variance for the existing enclosed porch and trellis.

Schuyler – 2nd the Motion.
Vote: 5-0 Davis, Schuyler, Stephens, Olcott, Macdonald

Respectfully submitted

Janice Fuentes
ZBA Secretary

4/14/10

RESOLUTION

Jerry Kugler & Leah Ross Kugler, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard and total side yard variance with respect to a proposed addition/renovation to existing house.

The property, at 6 Giglio Court, is located in a RA-40, District and is designated on the Tax Maps of the Village as Section 67.16 Block 2 Lot 31.

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 or detriment to nearby properties. The applicant has proposed plans that are below the required height requirements according to Village Code in order to protect his neighbors view.

The area variance is substantial however the benefit sought by the application cannot be achieved by any other method due to the topography of the land.

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

The alleged difficulty was due to the topography of the land and not self created.

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

Stephens – Made Motion to grant a side yard variance of 10 ft. and total side yard variance of 29 ft. According to revised plans submitted on April 14, 2010, and with the following condition:
In view of the fact that the applicant requested this variance to mitigate adverse impacts on his neighbor's view of the river and due to the as of right proposed construction, this variance will remain in effect as long as there is no additional construction and with the condition that no future renovations of the house be made above the roof line as shown on page 5 of the elevation plans that were submitted and prepared by Peter Cole and dated April 14, 2010.

Olcott – Second the Motion
Vote: 5-0 – Stephens, Olcott, Davis, Macdonald, Schuyler.
4/14/10

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

Norma Curtin, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard variance with respect to an existing enclosed porch and trellis.

The property, at 1 Whelan Ave., is located in a RA-5, District and is designated on the Tax Maps of the Village as Section 79.13 Block 3 Lot 38.

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

The enclosed porch and trellis have existed for years and do not affect the neighbors. His neighbor required a variance for a shed that was legalized after a purchase.

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

There were no objections from the neighbors.

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

The area variance requested in this case is not substantial.

Compliance would require deconstruction of the existing enclosed porch which would be a substantial financial out-lay.

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

Davis – Made Motion to grant the variance as follows:

During deliberations it was found that the amount of variance the applicant was requesting was incorrect. The Board agreed to amend the application to grant a 1.7 ft. side yard variance for the existing enclosed porch and trellis.

Schuyler – 2nd the Motion.
Vote: 5-0 Davis, Schuyler, Stephens, Olcott, Macdonald
4/14/01

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.