

Village of Croton-on-Hudson  
Zoning Board of Appeals Meeting of  
June 8, 2011

PRESENT: Seth Davis, Chairperson  
Alan Macdonald  
Doug Olcott  
Roseann Schuyler  
Rhoda Stephens

ALSO PRESENT: Joe Sperber, Assistant Building Inspector  
Daniel O'Connor, Village Engineer  
Casey Raskob, Village Trustee

**1. CALL TO ORDER:**

The Zoning Board of Appeals Meeting of June 8, 2011 was called to order at 8:03 P.M.

**2. OLD BUSINESS:**

- a) **Peter Tsagarakis/Rakis Inc. - 6 Hudson Street, 215 So. Riverside Ave. & Bungalow Road.** Located in a RA-5 and C-2 Districts and designated on the Tax Maps of the Village as Section 79.09 Block 1 Lots 52, 53, 54, & 55. Request for variance from the requirements of Code Section 230-164(E) for extension of the expiration date on the two ZBA Special Permits under Code Section 230-51(C) and Code Section 230-52(B) and ZBA Area Variance under Code Section 230-49(C)(1) granted by the Board on May 12, 2010.

Chairman Davis explained that the action before the Board was a procedural matter. Although there is currently legislation pending by the Village to make this type of application a Type II Action under the State Environmental Quality Review Act (SEQRA), the application before the Board for the extension on the previously granted variance and special permits has to be treated as an Unlisted Action. Following SEQRA procedure for Unlisted Actions, the ZBA had declared itself the Lead Agency, and referred the application to the WAC. The WAC reviewed the matter and in a memo dated 06/03/11, issued a preliminary determination of consistency with the Local Waterfront Revitalization Program (LWRP). Chairman Davis further explained that tonight the ZBA needed to make a positive or negative declaration under SEQRA as to whether the application had any potential adverse environmental impact after examination of the Short Environmental Assessment Form (SAF), revised and dated 06/08/11, and submitted by the applicant through his representative counsel, Mr. Gerald Klein.

Ms. Stephens requested that it be noted that the entry to item 4 – Precise Location, on the SAF should read “.....the corner of intersections of Albany Post Road & Bungalow Road & **Hudson Street**”.

Chairman Davis stated that should the Board issue a Negative Declaration tonight, the application would be referred back to the WAC for a final determination of consistency, and then would return to the ZBA for discussion of granting the actual extension. At that time, the public hearing would be reopened.

Chairman Davis then made a motion to issue a Negative Declaration declaring that no significant adverse environmental impacts would result from the application for the extension. Ms. Stephens seconded the motion. The motion passed 5 - 0 in favor.

### **3. PUBLIC HEARING:**

- a) **Sevilla, Jaime & Dolores** - 12 Ridge Road. Located in a RA-5 District and designated on the Tax Maps of the Village as Section 79.09 Block 1 Lot 47. Request for side yard variance and total side yard variance.

John Turnquist, Architect for the owners, presented the application. He had a display board and passed a camera around to the Board members with photos of the property. He explained that Ridge Road was very congested, and building the proposed concrete and wood garage would allow the owner to take one of his three cars off Ridge Road. There was also a problem with potentially dangerous trees on Ridge Road, one of which had fallen in the past. The construction of the proposed garage was on the side of the property adjacent to vacant, steep land, not the side with neighbors.

Chairman Davis presented a letter regarding the application, from the owners' neighbor, Ms. Alys Bohn residing at 11 Ridge Road, which had been sent to the Secretary. In her letter, she requested that some type of small tree(s) or shrubbery be placed in front of the proposed garage to obscure her direct view of it from her living room. Mr. Turnquist had not been aware of the letter, but as indicated in her letter, the owners had spoken to Ms. Bohn. Mr. Sevilla, who was also at the meeting, said he had no objection to her request even though he felt it had no bearing on the granting of the variance by the Board.

Chairman Davis asked for any comments from the public regarding the application to which there was no reply. Chairman Davis declared the public hearing closed.

After discussing the application and getting clarification on the size of the variances sought from Mr. Sperber, a motion was made by Ms. Stephens to grant a 5 foot side yard variance and a 6 foot total side yard variance with the conditions set forth in the Resolution for the construction of the proposed garage. Seconded by Mr. Olcott, the vote carried 4 -1 in favor; Chairman Davis, Mr. Olcott, Ms. Schuyler, and Ms. Stephens in favor, Mr. Macdonald opposed.

- b) **Croton Community Nursery School** - Lower North Highland Place (Proposed 3 Lot Subdivision) Lot 1. Located in a RA-40 and designated on the Tax Maps of the Village as Section 67.20 Block 2 Lots 5, 6, 9, and 25. Request for front yard variance.

The Croton Community Nursery School was represented by its attorney, Mr. Norman Sheer, and Mr. Ron Wegner, Engineer for the project. Mr. Sheer explained that one of the conditions of the preliminary approval by the Planning Board for the 3-Lot Subdivision was that Lot 1 be moved closer to the front property line and further away from the wetland buffer. The applicant has made the necessary proposed change to set the structure back 35 feet rather than the required 50 feet for the RA-40 zoning district, necessitating the request for the 15 foot variance. The proposed change according to the applicant would lessen the disturbance to the wetland buffer and would not cause any adverse affect on, or change the character of, the neighborhood.

Mr. Macdonald had a question regarding the potential 10 foot conveyance of land to the adjoining neighbor of Lot 1. Mr. Sheer explained that it would be owned by the neighbor but the Village would have an easement through it.

Chairman Davis, stating that it being a public hearing, then asked if there were any comments from the public. There was no response, so he declared the public hearing closed.

After some discussion, the Board agreed that granting the variance would result in environmental benefits to the entire community. A motion was made by Ms. Schuyler to grant a 15 foot front yard variance with respect to Lot 1. The motion was seconded by Mr. Olcott. The vote carried 5 - 0, all in favor.

- c) **Kearns, Kevin** - 110 Old Post Road North. Located in a RA-25 District and designated on the Tax Maps of the Village as Section 67.20 Block 4 Lot 18. Request for front yard variance and total side yard variance.

Adam West stepped forward and introduced himself as the Contractor and Mr. John Lentini as the Architect for the proposed project. Mr. Sperber explained the variances being sought. The two structures on the property, the house and the existing garage, pre-date zoning. No changes to the house are being proposed, so it retains its legally non-conforming status. If the proposed garage (in between, and attached to the house and the detached existing garage) were to be built, the garages would become part of the primary structure and would require relief from the 40 foot front yard setback requirement. It would also initiate the total side yard requirement of 50 feet. Currently, there is 5 feet on the side yard with the house structure and 35.5 feet on the side with the existing garage, totaling 40.5 feet, and necessitating the 9.5 foot total side yard variance request.

Mr. Macdonald had many concerns regarding the proposed project, which included extending the curb cut to accommodate the new garage, the future life of the tree on the street near the front of the proposed garage, the width of the new garage and garage door which would be wider than the older garage door, and the general change in appearance of the façade of the property.

Mr. Lentini stated that they were trying not to change the look of the property and would be reusing the stones taken down for the project. Mr. West said the new garage door would match the old one in appearance, but if necessary could match its size also. He also stated that he didn't feel the project would harm the tree in question.

Mr. Macdonald pointed out that the drawings before the Board were not accurate in regard to the windows. Mr. West agreed and offered to correct the plans. Mr. Macdonald also offered some alternatives to the proposed plans, which Mr. West and Mr. Lentini felt were not feasible.

Chairman Davis then opened the public hearing on the application. With no response from the public, Chairman Davis declared the public hearing closed.

Upon discussion, the Board had several concerns. It stressed its desire to preserve the historical nature of the property. The visual impact of the changes was a big question, and was supported by the fact that the drawings the Board were looking at, did not completely match what was stated by the applicant. The Board asked that the applicant rethink the project design and try to come up with an alternative design with less impact to achieve the desired goal, and come back with more information and more accurate drawings.

- d) **157 Maple St. LLC** - 157 and 159 Maple Street. Located in a RB District and designated on the Tax Maps of the Village as Section 68.17 Block 4 Lot 41. Request for 2 side yard variances, total side yard variance, and lot width variance.

The owners of the property, Dan Merritts and Tom Merritts, were present along with their attorney, Steven DeYoung, who presented the application. He gave a short history of why the application was before the Board, explaining that the owners sought to make a cluster subdivision, and had submitted an application to the Village Board for approval in March of 2010. That application is still in the review process, so in order to move forward, the applicants are taking a different approach. Currently there is a two-family home on the property. The applicants would like to divide the property into 2 lots, and thus creating 2 separate and legal homes. No structural changes would be needed, but the proposal would then require the four variances being sought.

Mr. DeYoung further explained that the proposed change had many benefits. If the applicant were to build 2 new homes on the proposed 2 lots, the rear yard would be lost in order to meet zoning requirements. The proposal would encourage ownership of the properties rather than renting. There would be no disturbance to the existing trees on the property. As part of the project, a driveway would be constructed for Lot B and the front lawn would be restored, which would take away the parking lot look that currently exists. Mr. DeYoung pointed out the letter included with the application, by three neighbors across the street, in support of the application. He also pointed out that there were similar

types of properties in the immediate area of Van Wyck and Grand Streets which had been approved.

Chairman Davis got confirmation from the applicants that they still needed subdivision approval from the Planning Board. Mr. Macdonald got confirmation that ultimately, upon approval of the plan, there would be two separate systems for the water, heating, and sewer.

Chairman Davis, stating that it being a public hearing, then asked if there were any comments from the public. There was no response, so he declared the public hearing closed.

As a result of the discussion of the application, the majority of the Board concluded that granting the application would indeed result in positive benefits to the neighborhood, as supported by several neighbors, and which would include taking cars off the street, promoting ownership, and improving the appearance of the property by restoring the front lawn.

A motion was made by Ms. Stephens to grant a side yard variance of 8.0 feet with respect to Lot A, another side yard variance of 8.0 feet with respect to Lot B, a lot width variance of 4.40 feet and a total side yard variance of .96 feet both with respect to Lot B along with the conditions set forth in the Resolution. The motion was seconded by Mr. Olcott. The motion passed 4 to 1 with Chairman Davis, Mr. Olcott, Ms. Schuyler, and Ms. Stephens in favor, and Mr. Macdonald opposed.

#### **4. APPROVAL OF MINUTES:**

The minutes of the May 11, 2011 Zoning Board of Appeals meeting, as amended, were approved unanimously.

The ZBA then asked the Village Engineer, Dan O'Connor, for an update on the current status of the application regarding 3 Arrowcrest Drive. He said the Village was still waiting for money from the applicant for a study to be conducted by a Village consultant. The ZBA expressed concern that the application remains open and that violations still exist. The Board would like to request that some action be taken to resolve the matter or bring the application back to the Board for resolution.

#### **5. ADJOURNMENT:**

Mr. Olcott made a motion to adjourn which was seconded by Chairman Davis with all in favor. The meeting was adjourned at 10:48 P.M.

Respectfully submitted,

Toni Cruz  
Secretary, Zoning Board of Appeals