

Village of Croton-on-Hudson  
Zoning Board of Appeals Meeting of  
July 13, 2011

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

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

ABSENT: Rhoda Stephens  
Village Board Liaison

**1. CALL TO ORDER:**

The Zoning Board of Appeals Meeting of July 13, 2011 was called to order at 8:00 P.M.

**2. OLD BUSINESS:**

- a) **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.

Before Mr. Adam West, contractor for the applicant made his presentation, Chairman Davis wanted to make it clear to him that the Board's basic concern regarding the application was for the historical and aesthetic value of the property. Mr. West said he understood this and then went on to present his materials which included re-detailed drawings of the garage and photoshop images of the proposed garage door. He pointed out the proposed concrete apron and curb cut. The new apron would be of a pervious material which would allow grass to grow through it (grass pavers). He also pointed out that the tree in question at last month's meeting was a good distance from the proposed garage door. Another photo which superimposed the garage in the courtyard area now correctly reflected the location of the main structure's kitchen windows.

Mr. Macdonald and Ms. Schuyler questioned why Mr. West would not make both garage aprons identical, feeling that two different looks would result in drawing negative attention to the dissimilarity in appearance. Mr. West said that he did not propose it because the one already existed, but he was willing to do so. The Board also recommended that the on-street parking area, which would no longer be needed, then be removed and restored back to sidewalk, grass strip, and raised curb and that a tree of at least 3 inch caliber be planted. Chairman Davis remarked that even with the new garage door, the stone motif extended quite a distance beyond the garage doors.

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.

A discussion by the Board of the composition of the proposed apron followed. Mr. Sperber pointed out that there was an example of such an apron on Grand Street. The Board reaffirmed that both driveways should be identical and the curb cuts should be altered as recommended. Mr. West was present for this part of the meeting and agreed to these conditions.

A motion was made by Chairman Davis to grant the variance with the specified conditions. Mr. Olcott seconded the motion. The motion passed 4 to 0 in favor.

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

- a) **Kugler, Jerry** - 6 Giglio Court. Located in a RA-40 District and designated on the Tax Maps of the Village as Section 67.16 Block 2 Lot 31. Request for side yard variance and total side yard variance for an addition/renovation to existing house.

Mr. Kugler had been granted these same variances by the Board on April 14, 2010, but they had become null and void because they had expired. Chairman Davis wanted to make it clear that this was being treated as a new application and not an extension of the variances granted in 2010, and should the Board grant the variances being requested at this meeting, the applicant would be given a full year again to commence the work involved.

Mr. Kugler then distributed letters of support from the same neighbors who had written similar letters for the last application. He also confirmed for the Board that there were no changes in the design/plan, but that the drawings were now more complete.

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.

Chairman Davis expressed that since there were no changes in the application or plans, the Board would be inclined to issue the same resolution with the same findings and conditions.

A motion was then made by Ms. Schuyler to grant the side yard variance and total side yard variance. Mr. Olcott seconded the motion. The motion was passed unanimously, 4 - 0.

**4. OLD BUSINESS (continued):**

- b) **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.

There was no one present at the meeting for the applicant. Chairman Davis related that he had received a letter the day before the meeting, via the Village Engineers Office, from Mr. Gerald Klein, the applicant's attorney, requesting an adjournment. In the letter Mr. Klein said although his client wanted to attend the meeting, he was undergoing medical procedures which prevented him from doing so, and for that reason was requesting an adjournment. Chairman Davis further related that the letter was circulated to the other Board members, and they were asked if they wanted to adjourn the meeting and none were willing. Chairman Davis explained that the application in front of the Board was largely concerned with the extension of time, and with no scheduled meeting in August, the granting of the adjournment would become a two-month adjournment, which would result in the substantive relief that the applicant is seeking.

Chairman Davis had asked Mr. O'Connor to reach out to Mr. Klein and express the Board's desire to have the applicant represented at the meeting, and obtain for the record, the applicant's intentions for the site. He then asked Mr. O'Connor if he had heard back from Mr. Klein, and Mr. O'Connor replied in the negative. Chairman Davis, feeling that the application before the Board was only a part of a complicated situation, and that the Board had sufficient material on the application, felt the Board was prepared to take action on the matter tonight. Ms. Schuyler concurred.

Chairman Davis went on to say that although the Board had received the WAC's final recommendation of consistency, the conditions specified by the ZBA in the original granting of the variances had not been met, and that there have also been a couple of violations – one of which is the use of the property on Hudson Street for customer parking. This area was supposed to be used for employee parking only, but current signage reads customer parking.

Mr. Macdonald said he would like to see something from the Planning Board, but Mr. O'Connor explained that there was an established site plan and that the Planning Board's approval was still valid.

As he had stated in previous meetings, Mr. Olcott felt that no real work had been done in all the time that had passed since the granting of the variances back in May of 2010; that at the least, construction bids could have been obtained.

Ms. Schuyler felt that it was not correct to say no work had been done, but that what was done was selective in nature, desirable only of the owner. Nothing had been done to mitigate the effects on the neighborhood or Village, such as landscaping.

Chairman Davis then opened the meeting to the public.

Mr. Charles Henley of 7 Hudson Street came forward to once again express his opposition to the application. His letter to the WAC dated 6/22/11 was part of the Board's packet of materials. His main point was that Mr. Tsagarakis has a history of not completing things he has agreed to, (to the ZBA, to the Planning Board). He is concerned for the neighborhood and would like to see the 6 Hudson Street returned to its residential status. In regard to 6 Hudson Street, he would like to see the employee parking conditions, at least, enforced. He also said he thought it would be a good idea to use the renewal of the special permit use of the Bungalow Street property for parking, as a "bargaining chip".

Mr. Harold Lockwood of 10 Hudson Street said he was once again there to express his opposition to the application.

With no more comments from the public, Chairman Davis called the public hearing closed.

In summary, Chairman Davis said that the Board shared the concerns of the neighborhood and would like nothing better than to have a successful business at the site, which would be a credit to both the neighbors and the Village. In that light, he felt the Board has tried to work with the applicant to make it a give and take situation, but that the applicant has not done his part, with essentially no work having taken place.

Chairman Davis made a motion to deny the application for extension of the expiration date on the 2 special permits and area variance originally granted by the ZBA on May 12, 2010. Ms. Schuyler seconded the motion. The motion passed 3 - 1 in favor of denying the application: Chairman Davis, Mr. Olcott, and Ms. Schuyler voted in favor; Mr. Macdonald was opposed.

Chairman Davis requested that Mr. Sperber or Mr. O'Connor contact Mr. Klein to let him know that, as per Village code, the applicant can request a rehearing, and he should contact the Board if he would like to do so. However, the Board would need to vote unanimously on the motion to schedule a rehearing.

## **5. APPROVAL OF MINUTES:**

Chairman Davis wanted it noted that the final versions of the resolutions from the June 8, 2011 meeting were not before the Board at this time. The Secretary will e-mail the resolutions to the Board for final review at which time the Board may suggest editorial changes. Chairman Davis requested that as part of standard operating procedure, the

Secretary circulate the resolution drafts to the Board members, as soon as possible, following each meeting. Final approval of the resolutions should be part of the “approval of minutes” portion of the monthly meetings.

The minutes (minus the resolutions) of the June 8, 2011 Zoning Board of Appeals meeting, as written, were approved unanimously.

**6. ADJOURNMENT:**

Mr. Olcott made a motion to adjourn which was seconded by Chairman Davis. The meeting was adjourned at 8:57 P.M.

Respectfully submitted,

Toni Cruz  
Secretary, Zoning Board of Appeals