

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
September 14, 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

ABSENT: Village Board Liaison

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of September 14, 2011 was called to order at 8:00 P.M.

2. OLD BUSINESS:

- a) **Paul Hirsh** - 46 Thompson Avenue. Located in a RA-5 District and designated on the Tax Maps of the Village as Section 79.09 Block 2 Lot 33. Request for re-hearing of side yard variance for an existing deck, granted on May 11, 2011.

Mr. and Mrs. Hirsh were present at the meeting. Mr. Hirsh explained that since last meeting with the Zoning Board, all the necessary steps had been taken to obtain the Certificate of Occupancy for the existing deck and that they were now requesting a re-hearing due to the condition placed on the granting of the variance. The condition stated that "the variance shall remain in effect only as long as the current owners continue to occupy the house as their primary residence". Although currently undecided about how long they would remain at this home, they had received estimates from several contractors regarding the removal of the deck. It was determined that there were drainage pipes in the way of the deck footings that would also need to be removed, which brought the estimates to about \$10,000. He further explained that since he and his wife were both on pensions, such a cost would create a financial hardship.

The Board then proceeded to explain its reason for the condition. Chairman Davis said he was troubled by how close the deck is to the property line even though the neighbors had no problem with it. He continued, stating that rulings needed to be consistent throughout the Village and the Board did not want to set a precedent. Mr. Macdonald concurred that the deck was too close to the property line. Ms. Stephens added that granting the variance was correct as long as the need was there, but there would be no

need for a new owner. Ms. Schuyler suggested that the cost of the deck removal could be treated as a credit to a potential purchaser. She also told Mr. and Mrs. Hirsh that they did indeed have extenuating circumstances, but could see neighbors or anyone else asking why not me. Chairman Davis further explained that the concept of “self-created hardship” existed in the Village zoning law and the Board would look at the situation differently for a new buyer. It would not be self-created in that case.

Mr. Hirsh said he now understood why the condition was included and thanked the Board for the explanation.

3. NEW BUSINESS

PUBLIC HEARING:

- a) **Peter Tsagarakis/Rakis Inc.** - 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. Request for two ZBA Special Permits under Code Section 230-51(C) and Code Section 230-52(B) for existing parking lot (Section 79.09 Block 1 Lot 52) on Bungalow Road.

Chairman Davis started off by explaining to the applicant that the purpose of tonight’s meeting was procedural. The Board intended to 1) declare itself Lead Agency in the matter and 2) refer the application to the Waterfront Advisory Committee for a determination of consistency. The hearing would be started and then adjourned awaiting results from the WAC.

Chairman Davis then made a motion to have the ZBA declare itself Lead Agency and send notice to the Village Board, the Planning Board, and the Waterfront Advisory Committee of such and to request that the WAC review the application for a preliminary determination of consistency with the Village’s Local Waterfront Revitalization Program policies. Mr. Olcott seconded the motion. The motion passed 5 - 0 all in favor.

Mr. Tsagarakis was present along with his Architect, Mr. Ed Gemmola, who was representing him. Mr. Gemmola came forward to update the Board. He explained that original plans were not doable because of the estimated cost, and that the amended site plan was now null and void. The current application and site plan is the same as the previous one except for a chain link fence with a gate between the Diner and 6 Hudson Street, a high fence along the Hudson Street boundary, and landscape trimming.

The Board asked for further clarification about the fencing on Hudson Street and Mr. Gemmola presented photos showing that all the fencing would be matching. He also presented photos of Bungalow Road. Mr. Olcott asked if there were plans to remove the guard rail to which Mr. Gemmola replied in the negative. Mr. Sperber added that a variance would be needed to remove it.

After getting confirmation that the number of parking spots was not changing, Chairman Davis wanted to make it clear that no decision was being made tonight. He also wanted the applicant to understand the Board's concerns. He explained that the Board was trying to look at the property in its entirety and trying to do the best it can for both the applicant and his neighbors. The Board understands that installing the handicap ramp would be expensive for the applicant, and the Board hears the concerns and complaints from residents on Hudson Street. It also realizes that the Diner is an asset to the Village yet needs to fit into the neighborhood.

Then Mr. Tsagarakis spoke. He expressed his frustration with the situation. He said that his intentions were good having invested a lot of time in the Diner over the years, resulting in a lot of money being spent along with a lot of hard feelings. He was frustrated with the fact that the extension of the Special Permits had been denied, to which Chairman Davis replied that when the Special Permits had been issued in May of 2010, the Board made it very clear about the timing of expirations and that he should not have been surprised.

Ms. Schuyler then said that there had been no representation at the meeting requesting extension of the Special Permits. She also reminded the applicant that the plans presented to the Board included a "handicap area", and that lengthy discussions had taken place last year regarding the special permitting with the intended goal of both sides (Mr. Tsagarakis and the neighbors/community) coming away with what they needed.

Chairman Davis said Mr. Gerald Klein, Attorney for the applicant, had been told that a re-hearing could be requested, but that the Board could not discuss the application anywhere other than at the Board meetings.

Ms. Stephens asked how many parking spaces were there and Mr. Gemmola replied that there were 43 including the Bungalow Road lot.

Mr. Macdonald asked what was the future intent of the Hudson Street lot. Mr. Tsagarakis and Mr. Gemmola replied that it would take at least a half million dollars to dig up the lot and construct supporting walls, so any development is questionable.

Mr. Gemmola added that original plans proposing a handicap area got very expensive, and bad weather had gotten in the way of plans, but that Mr. Tsagarakis would like to work with the Village.

Chairman Davis reiterated that because of SEQRA no decision could be made at tonight's meeting. He did, however, give his opinion that visually something more was needed along Hudson Street and that the fencing needed to be matching. Mr. Olcott and Ms. Stephens agreed with the Chairman.

The meeting was then opened to the public, and Mr. Charles Henley of 7 Hudson Street stepped forward. He said he was confused about the purpose of tonight's meeting but nevertheless, wanted to express his objection to the application. He is disturbed that the

handicap ramp will not be done, disturbed that the applicant tried to have the property rezoned in 2004, disturbed by the fact that the garbage dumpster which was supposed to be moved now has fencing around it. He encouraged the Board to walk the site and hoped that no action would be taken tonight. He questioned when any work will be done. His main points were that 6 Hudson Street is an eyesore, that there is so much uncertainty revolving around the application, and concern for the encroachment of a commercial entity in a residential zone and that using 6 Hudson Street for parking would set a precedent.

Mr. O'Connor then stated that for the record 1) the site plan is null and void because the Special Permits and Variance are null and void and 2) per SEQRA, any changes could require site plan approval and would need co-ordination between the Planning Board and the ZBA.

Chairman Davis wanted it made clear that the Board was focusing exclusively on the Special Permit application for Bungalow Road, but needed to look at the whole property/site. Mr. Olcott added that the Board was sympathetic to the notion that what was approved last year may be too expensive in the present economy. Chairman Davis recommended that it might help to talk with the Engineering Department to try to find feasible alternatives.

4. APPROVAL OF MINUTES:

Ms. Schuyler made a motion to approve the minutes of the July 13, 2011 Zoning Board of Appeals meeting, as amended. The motion was seconded by Mr. Macdonald. The motion was passed 4 - 0 in favor with Ms. Stephens abstaining.

5. ADJOURNMENT:

The meeting was adjourned at 9:40 P.M.

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals