

Village of Croton-on-Hudson  
Zoning Board of Appeals Meeting of  
January 11, 2012

PRESENT: Seth Davis, Chair  
Roseann Schuyler  
Rhoda Stephens

ALSO PRESENT: Joe Sperber, Assistant Building Inspector

ABSENT: Alan Macdonald  
Doug Olcott  
Village Board Liaison

**1. CALL TO ORDER:**

The Zoning Board of Appeals Meeting of January 11, 2012 was called to order at 8:00 P.M.

Chairman Davis started the meeting by explaining that although only three members of the Board were present at the meeting, this constituted a quorum and the meeting could be held. As per Village Code, any vote or interpretation to be passed would require a majority of the full Board voting in favor. That would mean that all 3 members at tonight's meeting would have to vote "yes" unanimously for passage, otherwise the matter could be defeated. He added that traditionally the Board allows each applicant to proceed or to hold the matter over to the next meeting where there will hopefully be a full Board.

**2. OLD BUSINESS:**

- a) Consider draft zoning code amendment language regarding fences, walls, and attached structures for recommendation to Village Board.

The Board along with Daniel O'Connor, Village Engineer, and Mr. Sperber discussed the draft of the Local Law submitted by Joanna Feldman, Village Attorney, to Chairman Davis.

The Board had the following changes:

Section Three.E. Correction of "all" to "wall".

Section Eight.H.(1) Change "public street" to "street" and add "more than 25%" in front of "solid", making it "fences or walls not over six feet in height or more than 25% solid".

Section Eight.H.(2) Change "public street" to "street".

Section Eight.H.(4) Remove it completely.

Chairman Davis made a motion to transmit the redraft of the proposed Local Law to the Village Board as amended and recommend adoption. Ms. Stephens seconded the motion. The motion passed 3 - 0 with all members present in favor.

**3. NEW BUSINESS**  
**PUBLIC HEARING:**

- a) **Barnard Doran/Doran Construction Corp.** - 11 Irving Avenue. Located in a RA-5 Zoning District and designated on the Tax Maps of the Village as Section 79.09 Block 2 Lot 26. Request for total side yard variance for proposed second floor addition and front yard variance for existing/proposed front porch.

Barnard Doran stepped forward to present the application. He explained that he had purchased the property recently. The existing house is only 875 square feet and he would like to add a second story which would bring the square footage to 1768 square feet. The finished house would then have three bedrooms and two and one-half baths. To accomplish this, he needs a 2.8 foot total side yard variance, and a .7 foot front yard variance for an existing front porch that was not on the existing house plans. He would also need to rearrange the roofline to accommodate front windows on the second story.

Chairman Davis asked if the footprint of the house was being changed in the proposed plans. After getting a "no" from the Applicant, Chairman Davis confirmed with the Applicant that the house had been built in 1954 and that at the time it conformed to existing requirements. Mr. Doran added that he believed the proposed changes were in character with the neighborhood and had included, in the application package, photos of 7 Irving Avenue, 12 Irving Avenue, 15 Irving Avenue, and 125 Cleveland Avenue, as well as the subject house.

Ms. Stephens asked for confirmation that the .7 foot front yard variance was for the pre-existing porch. Mr. Doran replied in the affirmative, adding that the proposed change would not come any closer to the front property line.

Chairman Davis asked the Secretary if she had received any written comments from neighbors. She said she had not. Then Chairman Davis opened the public hearing.

Michael Goetz of 19 Irving Avenue came forward. Firstly, he wanted to know why if the footprint of the house was not changing, a variance was needed. Mr. Sperber explained that zoning requirements have changed since the house was originally built, and although the house is considered legally non-conforming, the proposed changes would be increasing that non-conformity which requires a variance. Mr. Goetz then registered a complaint, citing that deconstruction of the house had already begun and that the work had taken place at 6:45AM on two mornings and at 7:30AM that morning. Mr. Sperber told him that he could call the Engineering Department and if needed, a stop order could be issued. Mr. Goetz then said his biggest concern was that a multi-family dwelling might be allowed, to which he was assured that the house would remain a single-family

dwelling. Mr. Goetz's other concern was regarding the proposed window on the second floor facing the immediate side neighbor. He wanted to make sure it was not facing that neighbor's bedroom, so that each neighbor's privacy was maintained as had been done with past neighborhood projects.

Mr. Doran addressed the complaint, apologizing for the early morning work which was being performed by a demolition company. He said he would contact the company. He then explained that the demolition work that was taking place at present did not require a permit. As to the second-story side window, Mr. Doran said that he had spoken to the next door neighbor about the project. He further explained that the window in question was a bedroom window and was required by code as a means of egress.

Chairman Davis added that the Board was only addressing the variance and was not approving the plans.

With a quick poll from the other Board members, Chairman Davis said the Board was inclined to vote favorably on the matter and asked the Applicant if he would want the Board to vote tonight. Mr. Doran said he would like the vote to take place.

After a brief discussion regarding Mr. Goetz' concern, Ms. Stephens made a motion to grant a 2.8 foot total side yard variance for the proposed second floor addition and a .7 foot front yard variance for the existing/proposed front porch with the condition that the windows shall be as specified in the plans, dated 12/07/11 and submitted to the Board at this hearing.

The motion was seconded by Ms. Schuyler and passed with all 3 members present voting to approve.

- b) **Nancy Kennedy, Agent for Vera Scozzafava** - 20 Thompson Avenue. Located in a RA-5 Zoning District and designated on the Tax Maps of the Village as Section 79.09 Block 2 Lot 40. Request for side yard variance and total side yard variance for existing house and deck.

With no one present to represent the application, Chairman Davis adjourned it to the next ZBA meeting.

- c) **Ralph G. Mastromonaco, Agent for Steel Style Properties, LLC** - 50 Half Moon Bay Drive. Located in the WD Zoning District and designated on the Tax Maps of the Village as Section 78.16 Block 1 Lot 3. Appeal from the Building Inspector's interpretation of Village Zoning Code Section 230-22(I)(1)(a) regarding residential density limitation of the Waterfront Development Zoning District. Depending upon results of the appeal, a request for variance from Village Zoning Code Section 230-22(I)(1)(a) regarding residential density limitation of the Waterfront Development Zoning District may be heard.

Chairman Davis gave a brief explanation as to why the application was before the Board tonight. He explained that the application for a proposed single-family house had been heard by the Planning Board in December 2011 and based on the Village Engineer's findings regarding residential density limitation, referred the application, in a memo dated December 21, 2011, to the Zoning Board of Appeals. The Village Engineer, Daniel O'Connor, had sent a letter to the Applicant's agent, Mr. Ralph Mastromonaco, on December 13, 2011 advising him that a variance was needed from Village Zoning Code Section 230-22(I)(1)(a) regarding residential density limitation of the Waterfront Development Zoning District. Chairman Davis further explained that any applicant had the right to appeal the interpretation of Village Code made by any Village agency or official. Tonight Mr. Mastromonaco was making such an appeal. Chairman Davis added that should the Village Engineer's interpretation that a variance is needed be upheld tonight, the Board would then hear the application for the variance.

Chairman Davis reminded Mr. Mastromonaco that tonight, due to the fact that only 3 Board members were present, all 3 members would have to vote favorably to grant the variance, and because the issue was so complex the Board would at least like to hear the application. Mr. Mastromonaco agreed to present his application.

Mr. Mastromonaco's application package included an 18-page bound document addressed to Chairman Davis and the Zoning Board and dated December 19, 2011. Page 16 of this document included a copy of Mr. O'Connor's previously referenced December 13, 2011 letter to Mr. Mastromonaco.

Mr. Mastromonaco, agent for Steel Style Properties, LLC started by saying that his client had applied to the Planning Board to construct a single-family house on the lot at issue. He said the lot has always been a separate lot and was originally, back in 1987, intended to be the site for a restaurant. He said he did not understand Mr. O'Connor's conclusions in his letter that 50+ dwellings were non-conforming and another dwelling would increase the non-conformity, and that applying the entire tract of land in the WDD (Waterfront Development District), another dwelling would not adhere to the requirement of not more than one market rate dwelling for every 5,000 sq. ft. of dry land. The lot at issue is over 5,000 sq. ft. and were it treated as a separate lot as he believes it should, in the density limitation calculation, it would be in excess of the density requirement.

Ms. Schuyler asked what Mr. Mastromonaco meant by "separate lot". Mr. Mastromonaco said that the parcel in question is owned by Steel Style Properties, LLC and shares no common ownership with Half Moon Bay. Chairman Davis clarified that the lot was purchased through an auction through bankruptcy and since then has been separately owned. Mr. Mastromonaco had also passed around to the Board, a filed map dated 10/31/87, that he felt supported the separate lot contention.

Chairman Davis questioned the relevance of the 54 non-conforming dwellings. Mr. Mastromonaco said only that it was part of Mr. O'Connor's letter.

Then Chairman Davis said having been part of the Planning Board process of the Half Moon Development and being quite familiar with its history, he strongly disagreed with the opinion that the lot in question should not be included in the 5,000 sq. ft. (or 3,000 sq. ft. prior to that) residential density requirement. He said the requirement was intended to be applied to the entire District.

Ms. Schuyler expressed her agreement with Chairman Davis. Mr. Mastromonaco disagreed, saying that the Code uses the word “tract” and is unclear as to what is meant by that. Ms. Schuyler responded by saying that tract is defined in Section 230-22(C) as the entire District. Mr. Mastromonaco then asked to move onto the variance request.

Before moving onto the variance part of the application, Chairman Davis made a motion that the Applicant’s request for determination of the ruling of the Village Engineer, dated 12/13/11, be denied. Ms. Schuyler seconded the motion. The motion for denial passed 3 - 0 with all members present in favor.

Chairman Davis then wanted to make it clear that the variance application was for relief from the density requirement, and that building on the lot was an as of right use.

Mr. Mastromonaco stated that when the original site plan was developed, the density requirement was 3,000 sq. ft. and would that be applied today, the lot at issue would be in excess of that requirement. He continued, stating that through no fault of his own and by Village rezoning, the density requirement was changed to 5,000 sq. ft. which would make the entire District overbuilt. He stressed that he believes the lot is an isolated lot, should be treated as a separate lot, and should not be included in the density calculation.

He then said that the 18-page document he included with the application addressed the “Five Factors For Consideration”. Addressing factor #1, Mr. Mastromonaco said due to the fact that a single residential home was being proposed, there would be no undesirable change in the character of the neighborhood. Ms. Schuyler said, however, that the size of the house would be out of character. Mr. Mastromonaco disagreed. He then posted a site plan on the bulletin board. Board members gathered to look it over and discuss it. Mr. Mastromonaco wanted to stress that a restaurant was a permitted use on the lot and should his client decide to build a restaurant, the impact would be much greater.

Ms. Stephens asked for confirmation that the lot was a separate lot not under the governing power of Half Moon Bay. Mr. Mastromonaco so confirmed.

Addressing factor #2, Mr. Mastromonaco said that a restaurant could be built, but a single-family house could not be built without the variance.

Addressing factor #3, Mr. Mastromonaco said that treating the lot as a unit count of 1, the variance requested is the minimal variance that could be requested – one house. Board members were hesitant to agree to the unit count of 1. Chairman Davis said square footage was probably a better indicator, or the idea that the density calculation should not

be applied at all. He then asked Mr. Mastromonaco what the square footage is for the proposed house. Mr. Mastromonaco replied that he was not sure because it was still with the Planning Board, but it was between 2,000 and 2,500 square feet. In answer to Chairman Davis' question regarding the height of the house, he said it is similar to the height of the existing condos and is 5 – 10 feet above the Hudson River.

Addressing factor #4, Mr. Mastromonaco stated that single-family houses were exempt from SEQRA. Ms. Schuyler said that the Board still needed to determine whether the variance would have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Mr. Mastromonaco countered that the impact is far less than if his client were to build a restaurant, permitted by right. He also added that the single-family house would be next to the public clubhouse and public parking lot. Ms. Schuyler then added that she had attended the Planning Board meeting where the application was discussed. Part of the discussion involved the Riverwalk Trailway and she now wanted Mr. Mastromonaco to address that. He said they would be building the trail to connect the riverway walk to Half Moon Bay. They would be providing the easement and would be constructing it. He then indicated the trail on the site map. He added that the trail would be built on dry land, right next to the water, will follow the slope, and would be 6 feet from the slope. Ms. Schuyler added that the Planning Board had concerns about where the trail would be placed and whether the placement was feasible. Mr. Mastromonaco added that they were providing mitigation, and the Applicant was proposing to deed over the sailboat mooring fields for the use of the entire Village not just Half Moon Bay. Ms. Schuyler said at the same Planning Board meeting mentioned previously, there was a question as to ownership of the mooring fields. Mr. Mastromonaco said his client did own the mooring fields, and Mr. O'Connor, when asked about it, said that the Village did not have a deed and that he thought the issue was more that the same offer had been made in the past and never followed through.

Lastly, addressing factor #5, Mr. Mastromonaco said he did not believe the alleged difficulty was self-created, but was created when the zoning changed for the density requirement from 3,000 sq. ft. to 5,000 sq. ft. He didn't think the Applicant did anything at all to cause the difficulty.

Chairman Davis next opened the meeting to the public.

First to step forward was Anna Lattanzi residing at 906 Half Moon Bay Drive. She said she had attended numerous Planning Board meetings, but this was the first Zoning Board meeting and was surprised that the Board was still being fed a bunch of misstatements of fact by the Applicant. She objected to the notion that the lot at issue should be treated as a separate lot, which would be contrary to the Half Moon Bay's Amendment #1. She disagreed with Mr. Mastromonaco's statement that the clubhouse was a public clubhouse, and to his statement that his client has exclusive parking rights to the parking lot. She said that there have been 3 different footprints for the house set forth, and that the drawings keep changing. She also has concerns about the trail needing to be 6 feet from the rip rap, and whether the trail would end up under water. She said she took offense to Mr. Mastromonaco saying that the variance would be insignificant, when 60 residents

polled were all against the proposal. She also took offense to his saying that he was robbed by the change in zoning. The situation arose because the two developers went bankrupt. Lastly, she objected to the mooring fields constantly being dangled as an incentive. She said the offer had gone back as far as 2002.

Lisa Stenson-Desamours residing at 1400 Half Moon Bay Drive and President of the Half Moon Bay Homeowners Association Board stepped forward next. She stated that although some of the Half Moon Bay residents were opposed to the application, she would leave judgment up to the experts, but did want to express her Board's concerns for the adverse impact on river views, fear of congestion, and increased traffic. She said that Half Moon Bay is made up of over 500 residents (including retirees, empty nesters, and small children), 278 homes, and 173 marina slips/owners who contribute to the Croton economy and whose safety must be taken into account. She then read from Development Policy 24 whose goal is to prevent the impairment of scenic resources of statewide significance as identified on the coastal area map, asking that the Board push for as low a roofline as possible. She then cited Policy 11/11A of Local Law #6 which regulates the development of land in steep slope areas, requesting that the Board ask for appropriate safeguards for vehicular and pedestrian traffic. In particular, she asked that access be approved from the lower parking lot and not from Half Moon Bay Drive to ensure a safe means of ingress and egress. Lastly, she requested that if approved, it be made essential that the new resident would have a separate water and sewer meter, separate from Half Moon Bay's meter.

Chairman Davis then stated for the record that he had been a resident at Half Moon Bay for 4 years and had lived across the street from Ms. Stenson-Desamours. He then asked her if there was an official Homeowners Association position on the application. Ms. Stenson-Desamours said that the Homeowners Association and Steel Style Properties had been having a dialogue; she felt that they would reach a resolution but wanted to present the issues of concern to the ZBA. Chairman Davis also wanted to confirm that when she requested that access be from the lower parking lot and not Half Moon Bay Drive, she meant vehicular traffic. She said she did mean vehicular traffic.

The next to speak was Pete Drexler of 215 Half Moon Bay Drive. Making reference to the height restriction in Village Code Section 230-22(I)(2), he said he felt that the proposed project would obstruct river views throughout the year of some 600 residents and their guests. With a restriction in the code of 25 feet, the proposal is a 3-story design when viewed from the river, and when entering Half Moon Bay the panoramic view now being enjoyed would be destroyed. This would impact a lot of people which in turn would impact the value of the 278 homes in the development.

Gordon Baptiste of 405 Half Moon Bay Drive spoke next. He wanted to urge the ZBA to deny the variance for a host of reasons. He felt the scenic impact is extreme. He expanded on this, adding that when you enter the community, your first impression is the view of the Hudson, which can be of the beautiful sunsets. Another issue is the steep slopes. A third issue is the path of the river walk being so unclear. The path could be moved very close to the River which could pose potential danger. His fourth concern

was the height restriction which he said already had been covered. The change in the character of the neighborhood was another concern. The proposed building is 4 to 5 times bigger than the average home in the development. His last concern was the density issue. He stated there were specific laws and regulations regarding density relating to that District (WDD). The goal is to protect the Hudson River, and he felt the density restriction had already been exceeded and that the proposed project would just add to it.

With no one else stepping forward, Chairman Davis asked Mr. Mastromonaco if he had anything to say in reply to the speakers. Mr. Mastromonaco said that he has been working with the Planning Board and that there are issues before the Planning Board that overlap with the Zoning Board. The Planning Board process has not been finished. As far as the height restriction, he said the proposed structure was within the 25 foot height code limitation. He said he thought it was unfair to bring up the visual impact issue because he could have built a 6 foot fence along the entire front of the property without any Board approval, and he feels that they have already improved the site. What once was overgrown and looking like a jungle now at least has some landscaping. He then said he could build the restaurant, also without seeking Board approval, and that would have an even greater visual impact because that would be much bigger than the proposed single-family house and would take up the entire width of the lot. He said it was unreasonable to ask his client to continue to pay taxes on the property and not reap some benefit.

Mr. Drexler who spoke earlier then added that a restaurant would be impossible because of the parking situation. He said there is no room for parking at the site in the summer because the marina fills up all of the parking lot.

Duncan Quarless of 605 Half Moon Bay then spoke up from the audience to say that there is no such thing as a 3-story restaurant.

Mr. Mastromonaco then added that his client has exclusive use of the upper parking lot from 5PM to 7AM.

Mr. Jim Parkin, residing at 1402 Half Moon Bay Drive, also spoke from the audience. He said that Mr. Mastromonaco's client's other business is the marina and if he didn't let marina people park there, and give them exclusive rights to park there, the marina (his other business) would be out of business.

With no more comments from the public, Chairman Davis asked Mr. Mastromonaco if he had any objection to adjourning the application to the next ZBA meeting, explaining that it was a difficult matter and he would like input from the two absent members of the Board. He said he was not prepared to vote tonight. Ms. Stephens said she would like more time as well to reread the application along with pertinent code and analyze the issue. Mr. Mastromonaco said he had no problem with that but said he would like to answer any of the Board's remaining questions between now and the next ZBA meeting.

In response Chairman Davis said that he would like to see the dialogue keep going between the Applicant and Ms. Stenson-Desamours of the Homeowners Association and to come up with something acceptable to the homeowners who will be the Applicant's neighbors. Mr. Mastromonaco interjected that the proposed house will match the architecture of the existing houses. Chairman Davis then related his main concerns. He said he would like to see a clear delineation of what is proposed for the river walk. He also would like the special interests and concerns of the entire Croton-on-Hudson community, not just Half Moon Bay residents, addressed. The impact of views is of concern because it is a very special property. The development is the result of a special bargain between the community and the original developers with respect to the river, the views, and the important value of the river. Of high importance is access to the river walk, which was the reason why the entire development was allowed to be built, and he said he would be very critical of anything that would jeopardize it.

Mr. Mastromonaco added that he is a longtime Croton resident. He said that when you look at the entire Half Moon Bay development, it had an impact on the Hudson River, on the views, with 4,000 feet blocking the view for somebody. He said that he felt that his project would not block the view of a single resident from his or her home.

One last resident spoke - Lynn Harmony of 619 Half Moon Bay Drive. She said that she was concerned that the gazebo and barbecue which the residents use and value would be removed. Mr. Mastromonaco responded, saying that he had offered the Village to take possession of the gazebo and move it a little north.

Chairman Davis then adjourned the application to the next meeting of the ZBA.

Ms. Stephens wanted it noted that no Village Liaison was present at tonight's meeting.

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

Ms. Stephens made a motion to approve the minutes and resolutions of the December 14, 2011 Zoning Board of Appeals meeting, as amended. The motion was seconded by Ms. Schuyler. The motion was passed 3 - 0 in favor.

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

The meeting was adjourned at 10:25 P.M.

Respectfully submitted,

Toni Cruz  
Secretary, Zoning Board of Appeals