

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
June 16, 2014

PRESENT: Seth Davis, Chair
Doug Olcott
Rhoda Stephens
Christine Wagner

ALSO PRESENT: Joe Sperber, Assistant Building Inspector

ABSENT: Alan Macdonald
Village Board Liaison

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of June 16, 2014 was called to order at 8:05 P.M.

2. OLD BUSINESS:

- a) **Keeseey, Kelly**, Contingent Owner - 43 Old Post Road South. Located in a RB District and designated on the Tax Maps of the Village as Section 79.05 Block 1 Lot 28. Request for a rear yard variance for an existing structure and a use variance for a proposed physical therapy business and greenhouses.

The public hearing for the Keeseey application had been opened on April 9, 2014. Chairman Davis had received a memo, dated June 4, 2014, from the Chairman of the Waterfront Advisory Committee, Charlie Kane, in which the Waterfront Advisory Committee (WAC) issued its final recommendation of consistency with the Local Waterfront Revitalization Program. Chairman Davis asked if Ms. Keeseey had anything to add tonight; she did not. He then asked if the Board had any more questions which it did not and without any further comments or questions from the public, Chairman Davis declared the hearing closed.

Ms. Stephens made a motion to grant a 17.1-foot rear yard variance for the existing structure and to approve the use variance for the proposed physical therapy business and the soil-based and Aquaponic greenhouses. Mr. Olcott seconded the motion and the motion passed with a vote of 4 to 0 in favor.

This was followed by a motion made by the Chair to approve the amended prior resolution issuing a Negative Declaration. The amended resolution included "soil-based" and "Aquaponics" as a description of the type of greenhouses proposed. The motion was seconded by Ms. Wagner. The motion passed with a vote of 4 to 0 in favor.

3. NEW BUSINESS:

- a) **Skrelja, Alexander & Susan** - 56 Truesdale Drive. Located in a RA-9 District and designated on the Tax Maps of the Village as Section 79.09 Block 5 Lot 17. Request for a front yard variance for a new entry portico/porch.

Michael Piccirillo of MAP Architects, presented the Skrelja application. He explained that the house is a 1940s Cape style house whose front door opens directly into the living room. The current entry has little overhead cover, necessitating the proposed new entry portico. A new coat closet would be a by-product of the project. He said that back in 2007 a similar variance was granted, but was never built. Tonight's variance request is for 5 feet more than the previous one. Mr. Piccirillo said that the proposed project would enhance the living room and the house in general and that the Applicant has the support of the neighbors. In addition, he said there would be no detriment to the neighborhood should the variance be granted.

Chairman Davis asked for confirmation that the proposed project was similar to the 2007 proposal. It was so confirmed.

Three letters from neighbors had been submitted with the application, all expressing support for the project. The letters were from Lillian Brijeski of 55 Truesdale Drive, Abbie Voss of 52 Truesdale Drive, and John V. Hunt of 49 Truesdale Drive.

Mr. Olcott asked how much additional square footage was being proposed. Mr. Piccirillo said it was an additional 77 sq. ft. for the entry and closet and then there would be additional square footage for the landing and stair.

Ms. Wagner noted that all 3 letters of support came from neighbors in one direction from the house, and then asked if anything had been said by neighbors in the other direction. Mr. Piccirillo replied that those neighbors would probably not see much from their houses.

Chairman Davis then opened the hearing to the public and with no one stepping forward to speak, he then closed the hearing.

Ms. Stephens remarked that she had made a sweep of the neighborhood and felt that the proposal is not out of place. Ms. Wagner then remarked that the new entry/portico would put the house closer to the street than any other house nearby. Ms. Stephens said that if you turn the corner, that was not the case. Chairman Davis said he personally had no problem with the requested variance.

A motion was then made by Mr. Olcott to grant an 11-foot, 9-inch front yard variance for a new entry portico/porch. Ms. Stephens seconded the motion. A vote was taken and the motion passed 4 to 0 with all members in favor.

- b) **Boulos, John** - 32 Piney Point Avenue. Located in a RA-9 District and designated on the Tax Maps of the Village as Section 79.13 Block 4 Lot 44. Request for variance to erect retaining wall(s) greater than 6.5 feet in height

(accessory structure) for off-street parking, nearer to street on which the principal building (proposed new single-family house) fronts than such principal building. In addition, appeal from the Building Inspector's determination that a height variance for the same wall(s) is also required, and if the appeal is not granted, request for a height variance for the retaining wall(s).

- c) **Franzoso, Mark** - 34 Piney Point Avenue. Located in a RA-9 District and designated on the Tax Maps of the Village as Section 79.13 Block 4 Lot 45. Request for variance to erect retaining wall(s) greater than 6.5 feet in height (accessory structure) for off-street parking, nearer to street on which the principal building (proposed new single-family house) fronts than such principal building. In addition, appeal from the Building Inspector's determination that a height variance for the same wall(s) is also required, and if the appeal is not granted, request for a height variance for the retaining wall(s).

Ed Gemmola, of Gemmola Associates, was representing both Mr. Boulos and Mr. Franzoso with their applications since both proposed projects were similar. Ron Wegner of Cronin Engineering was also present. Chairman Davis asked Mr. Gemmola for a description of the overall project.

Mr. Gemmola presented the project. The plan was to build a new house on each of the two vacant lots. The proposal for the project was started back on 6/22/10 and there had been several public hearings as well as Planning Board meetings. The project had been delayed due to soil investigation analysis requirements, test borings, and the need for updated surveys. Both applications need a variance for an accessory structure (the retaining wall(s)) in excess of 6.5 feet and located in front of the primary structure. The retaining wall(s) are needed for a parking apron and the apron is needed for the required 2 off-street parking spots.

Mr. Gemmola then described the type of house that is planned for both lots, which is a Haiku house. He passed around a booklet about the Haiku house to the public in attendance. He said it is a packaged house on poles. The ground is drilled; the poles are set in concrete; and the rest of the house is delivered in panels. The house is staged and the apron needs to be done first in the staging process. He said the type of construction to be used would have minimal adverse effect to the land. Both houses are within the limits of the code regarding steep slopes and therefore do not require steep slope permits. (This was confirmed by Mr. Sperber). The houses would have minimal footprints; there would only be a small structure on the ground (a basement area) to allow for underground utilities. The proposed project for each lot conforms to all other setbacks.

Using the drawings provided to the Board, Mr. Gemmola indicated how the 2 site plans were similar and he indicated the location of the wall(s). The wall(s) would be Redi-Rock walls which he said have an improved look in recent years. He then explained that the idea to create each wall in two sections was to give a better look from below. The

Haiku house on each lot would have a natural wood finish with decks and would be nestled amongst the trees. Mr. Boulos was building the house for himself while Mr. Franzoso was building the house for his daughter. He added that he was not sure if both houses would be built at the same time.

To summarize, Mr. Gemmola said both applications require a variance to erect the retaining wall(s)/accessory structure nearer to the street than the primary structure. With regard to the height of the retaining walls, the variance sought for each lot would depend on the Board's determination as to whether the 2-tier wall on each lot will be treated as a one wall system. If treated as a one wall system, Lot 45 would require a 5.9-foot height variance and Lot 44 would require a 2.28-foot height variance. Mr. Gemmola said as an alternative, the retaining wall(s) on each lot could be built as just a 1-tier wall with a proposed height of only 14.5-feet on Lot 44 which would then not require a variance from the 15-foot limit, and a 1-tier wall with a proposed height of 17-feet on Lot 45 which would still require a variance but a smaller one.

Chairman Davis asked if each wall/tier would be connected to each other and Mr. Gemmola said they would not.

Chairman Davis asked Mr. Sperber what would be the next step for the Applicants should the variances be granted. Mr. Sperber said the applications would go before the Planning Board for site plan approval, and where other matters such as soil testing and building procedures/techniques would be discussed.

Chairman Davis wanted it noted that the Zoning Board's task tonight was only to grant or deny the variances sought with regard to the placement and height of the retaining walls and with that said, he opened the hearing to the public.

Ms. Melinda Bingham of Piney Point Avenue started off by asking for clarification of the variances being sought tonight, which were explained by Chairman Davis.

Stephen Kaplan of Piney Point Avenue spoke next. He questioned why the heights of the wall were different than the heights indicated on the original site plans and geotechnical engineering reports dated October 2011. Mr. Gemmola explained that plans had changed since then and that for soil testing purposes, the height of the wall includes that portion of the wall below the soil. Chairman Davis added that regardless of past height representations, the height variances being sought tonight were for walls with heights of 17.28 feet and 20.9 feet and the height, for the Board's purposes, is measured from the ground level up. If the variances were to be granted, the Applicants could not build them any higher.

Next to speak was Russell Davies, a resident of Nordica Drive and a N.Y.S. Professional Engineer. He said that there were drainage and erosion issues on the lots and believed it would be hard to keep 5 feet of soil fill up against the retaining walls. Mr. Gemmola said the soil test reports on both lots showed there was sufficient rock on the properties for the retaining walls.

Tim Robinson of Nordica Drive asked if the proposed off-street parking area had been included in the calculation of allowable square footage coverage and Mr. Gemmola and Mr. Wegner both confirmed that it was included in the calculation and that it was within the allowable limits. Mr. Robinson then asked if Mr. Gemmola could confirm where the borings were made and Mr. Gemmola said he could.

Ms. Bingham spoke again and said that she had read the entire engineering reports and was very concerned about the instability of the soil. The reports indicate that the soil is below the safety level and would require beyond standard procedures to stabilize the soil which would include the use of anchors. These anchors would need to be drilled under Piney Point Avenue which would result in more than the minimal disruption characterized by the Applicants. She also submitted a letter to the Board written by Lois Gimpel Shaukat of 28 Piney Point Avenue which stating her objections to the granting of the variances. Ms. Bingham said that Ms. Shaukat has owned her property on Piney Point Avenue for 15 years and her back porch has been sinking and that five years ago she replaced a retaining wall at the back of her house. Both she and Ms. Shaukat are concerned about the soil on the lots.

Mr. Davies and Mr. Kaplan then expressed concern about using anchors under the road, but Mr. Gemmola and Mr. Wegner both assured them that there would be no anchors under the road, only anchors to brace the house.

Mr. Kaplan then started a discussion as to the type of wall that would be erected because he said the engineering reports did not recommend the block structure. Chairman Davis asked for confirmation that the report asked for a change of materials for the walls and Mr. Kaplan did so confirm.

Chairman Davis requested that a copy of the structural engineering report being referred to, be given to each Board member. He also requested a written response from Mr. Gemmola about the public's concerns. Mr. Gemmola said that he had requested a joint meeting of the Zoning Board and Planning Board so that he could bring his professionals in to explain the project and to avoid the added expense of bringing them in more than once.

This was followed by a discussion brought forth by David Marcus of Piney Point Avenue with regard to whether or not the size of the guard rail atop the retaining wall should be included in the height calculation. Mr. Sperber said he believed it is not typically included, but he would discuss it with the Village Engineer.

Michael Lyons, residing at 25 Piney Point Avenue, said he had safety concerns. The project would mean numerous trucks, and possible use of propane tanks. He said it would be difficult for Piney Point Avenue to accommodate the required construction vehicles.

Mr. Robinson spoke again. He said that 15-foot walls would be out of character with the neighborhood and questioned how decorative 15-foot walls could be. Mr. Gemmola said he would bring a brochure (of walls) to the next meeting.

Chairman Davis said he would drive to Nordica Drive to view the sites of the proposed houses from that road.

Noah Kimberly of 37 Piney Point Avenue said he had safety concerns for emergency vehicles needing use of Piney Point Avenue while construction was taking place.

Mr. Davies and Mr. Kaplan both said that Piney Point Avenue has eroded over time and they were fearful that it could not handle heavy construction vehicles.

Chairman Davis summed up the status of the application. He said the Board needed more information and thus could not vote on the variances tonight. He continued the hearing to the July 9th meeting. He requested that the Board get a copy of the October 2011 engineering report referred to by the public. He requested a response from Mr. Gemmola to the objections raised tonight with regard to the material and structure of the retaining walls, and asked him to let the Board know as soon as possible if he would not be ready for the July 9th meeting. Chairman Davis said he would look at the sites from Nordica Drive. He also said he agreed with Mr. Sperber's interpretation that the retaining wall(s) on each lot should be treated as a single wall system.

Mr. Boulos then asked to speak. He said that Ms. Shaukat's retaining wall is much higher. He said he felt he had a right to build on land he bought 20 years ago. He said it was not his plan to "flip" the house, but had started the process 10 years ago. Within that time frame, he has had 4 surveys done, and has done everything the Village has asked. He said he sees roads blocked by vehicles all the time in the Village. He added that Mr. Gemmola has already changed the plans based on some requests, and he would like the people who attended tonight's meeting to be satisfied. Building a new house would also increase the Village's tax base.

4. APPROVAL OF MINUTES:

Ms. Stephens made a motion to approve the amended minutes and resolution of the May 14, 2014 Zoning Board of Appeals meeting. The motion was seconded by Mr. Olcott. The motion passed 3 - 0 in favor. Ms. Wagner abstained, having been absent from the meeting.

Ms. Wagner then made a motion to approve the amended minutes and resolution of the May 19, 2014 meeting of the Zoning Board of Appeals. The motion was seconded by Mr. Olcott. The motion passed 4 - 0 in favor.

5. ADJOURNMENT:

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

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Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals