

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
November 12, 2014

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

ALSO PRESENT: Joe Sperber, Assistant Building Inspector

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of November 12, 2014 was called to order at 8:00 P.M.

2. NEW BUSINESS:

- a) **Hilpert, Luke, Attorney for David Kimelman - 53 Old Post Road North.**
Located in a RA-5 District and designated on the Tax Maps of the Village as Section 67.20 Block 2 Lot 24. Request for frontage variance for rear lot for a proposed subdivision of an existing single lot with 2 single-family dwellings, into 2 lots each with 1 single-family dwelling.

Mr. Hilpert and Mr. Kimelman were both present at the meeting but Mr. Hilpert presented the application. He said he was representing both owners of the property, Mr. Kimelman and Mr. Kevin Burke. With the aid of a large survey on display, he explained that the owners are seeking a 20-foot frontage variance which would be required for the rear lot of the proposed 2 lot subdivision. Although the survey included in the application depicted the proposed subdivision line, the exact location of the lot line separation would be determined by the Planning Board. The current multi-family use of the property would change to 2 single-family uses. The owners reside in the front house and another family lives in the rear house. The family living in the rear house would like to purchase the rear lot if the subdivision gets approval which is one of the reasons the owners are seeking the variance.

Mr. Hilpert stated that there had been discussion about proposing a flag lot for the rear lot but that presented too many problems. There would be insufficient width between the house on the proposed front lot and the house on the property to the south adjoining the proposed front lot; the retaining wall at the property line to the south would need to be removed, along with two large trees, in order to create a driveway for the rear lot.

Mr. Hilpert further explained that the rear house was legally non-conforming, that no construction would take place, and that the proposed change would be on paper only. Addressing the factors for the granting of the variance, he said that it would be beneficial

to the Applicant(s) to subdivide the property and sell off the rear lot, and that he did not believe there would be any detriment to the neighborhood if the variance is granted.

Mr. Olcott asked if both houses were currently occupied by single families and Mr. Hilpert replied in the affirmative, adding that both residences would continue to be used in the same way after the subdivision.

Mr. Sperber added that the residences can only be used in their current use and cannot convert back to any other use.

Ms. Stephens asked what the size of each lot would be after the split. Mr. Hilpert replied that the front lot would be slightly greater than 17,000 square feet with the balance of the total 32,500 square feet going to the rear lot. The required square footage for a lot in the RA-5 Zone in which the property is located is 5,000 square feet.

Mr. Hilpert added that although the frontage variance request seems substantial from a mathematical point of view (reducing the frontage of the rear lot to 0), it is not necessarily a mathematical determination "per Village Code".

Chairman Davis received confirmation from Mr. Hilpert that no construction would take place; that only a lot line was being drawn. Mr. Hilpert added that easements would be needed.

Ms. Wagner asked if the outhouse on the property would need to come down if the alternate flag lot configuration were to be used. Mr. Hilpert replied that it would. He then added that the proposed subdivision would bring the property in conformity with the neighborhood, there would be no increase in traffic, no change in use, and no change in impervious surface. The difficulty was not self-created in that the property existed as prior to Applicant(s) ownership. He added that the proposed change would have no impact on the adjoining neighbors to the north, the Liptons.

Chairman Davis then opened the hearing to the public and Mr. John Mastracchio of 49 Old Post Road North stepped forward. His property is the adjoining property to the south of the proposed front lot. He had a question with regard to the sequence of events if and when the variance is granted. Chairman Davis explained that the Zoning Board would only deal with the frontage issue and that the Applicant(s) would need to come before the Planning Board to address such things as easements, utilities, and the determination of the actual subdivision lot line; they would not need to come back to this Board. Mr. Mastracchio then stated that should the rear lot become a flag lot it would be a serious problem for him. His house is about 180 years old and he is in the process of refurbishing it. His house would only be 1' 6" away from the proposed driveway. He then asked if the two houses have a combined sewer line and Mr. Kimmel replied that the sewer lines combine after they leave the property.

With no one else stepping forward, Chairman Davis closed the public hearing.

The Board discussed the application. Chairman Davis said that given the choice where to put the driveway, the proposed application is the way to go.

Mr. Macdonald said that due to the size of the survey included in the application package (8¹/₂" by 14"), he had difficulty reading the survey.

Chairman Davis then made a motion to grant a 20-foot frontage variance for the rear lot for a proposed subdivision of the existing single lot with 2 single-family dwellings, into 2 lots with 1 single-family dwelling on each. Mr. Olcott seconded the motion. The motion passed with a vote of 4 to 1. Chairman Davis, Mr. Olcott, Ms. Stephens, and Ms. Wagner all voted in favor. Mr. Macdonald was opposed.

Mr. Mastracchio then said that there were 4 electrical meters on the property and asked if the extraneous ones could be removed. Mr. Sperber replied that in the past, Con Edison has refused to do so, but he would look into it again.

Mr. Mastracchio then followed up with a question as to what percentage of variances are granted by the Zoning Board. Chairman Davis said he did not know the percentage but that more are granted than denied. Mr. Olcott added that there are a lot of legally non-conforming properties in the Village. Ms. Stephens added that there are a lot of old houses in the Village.

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Next, for the record, Chairman Davis stated that he had been approached by the Applicants of the Piney Point properties (Mark Franzoso and John Boulos) to request a procedural discussion along with the Chairman of the Planning Board, the Village Engineer and representatives. The discussion took place and it was agreed that a "joint" meeting of the Planning Board and Zoning Board of Appeals would be scheduled as a matter of convenience to the Applicants and for strictly informational purposes. The meeting would take place on either a Planning Board meeting date or a Zoning Board meeting date. The meeting has yet to be scheduled. With regard to this Board, technically the meeting would be a continuation of the hearing and although it will be an official meeting, the Board will not take any action at that time. Both the Chairman of the Planning Board and Chairman Davis will formally open and adjourn their respective meetings. Some questions about the meeting still need to be resolved, such as whether the public will be able to ask questions. Chairman Davis added that such a meeting would not estop this Board from requesting more information from the Applicants and the Applicants will still need to come back to the ZBA. Chairman Davis further added that it would be an open meeting with the agenda being made public. Ed Gemmola and Jody Cross of Zarin & Steinmetz will be representing the Applicants at the meeting. He also suggested that the public be noticed.

3. APPROVAL OF MINUTES:

Ms. Stephens made a motion to approve the amended minutes and amended resolutions of the September 10, 2014 Zoning Board of Appeals meeting. The motion was seconded by Ms. Wagner. The motion passed 5 - 0 in favor.

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

4. ADJOURNMENT:

The meeting was adjourned at 9:00 P.M.

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals