

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
March 11, 2015

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

ALSO PRESENT: Joe Sperber, Assistant Building Inspector

ABSENT: Village Board Liaison

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of March 11, 2015 was called to order at 8:03 P.M.

2. NEW BUSINESS:

- a) **Schneider, Heike, Architect for Kussa Corporation – 370 South Riverside Avenue. Located in a C-2 District and a Gateway Overlay District and designated on the Tax Maps of the Village as Section 79.13 Block 1 Lot 70. Request for front yard variance, rear yard variance, and front façade transparent glass percentage variance for change from an existing 1-story commercial building to a 3-story mixed occupancy building.**

The property is a deli known as Abby's Deli on the corner of South Riverside Avenue and Benedict Boulevard. The owner Abby Razghandi/Kussa Corporation was present along with his Architect, Heike Schneider. Ms. Schneider presented the application. She displayed a site plan and architectural drawings. The proposed 2-story addition requires 3 variances, 2 of which are for pre-existing conditions. The proposed glass frontage of 23% on Benedict Boulevard would require a 37% variance from the 60% requirement. A front yard variance range of 25 – 40 feet from Benedict Boulevard is also being sought as well as a rear yard variance of 2' 8" from Benedict Boulevard. The rear yard setback requirement is either 0' or 10'. The Applicant is seeking the rear yard variance from the 0' requirement so as to minimize the variance request. The proposed design would allow for an ADA compliant apartment along with a garden and the required number of parking spaces.

At Chairman Davis' request, Mr. Sperber confirmed the variances being sought.

Ms. Stephens stated that the building was constructed prior to the enactment of the Gateway Overlay District Code and has been in its present configuration for a long time.

Chairman Davis added that any enlargement to the existing building would therefore need to meet current code for its District and the Gateway Overlay District Code.

Mr. Macdonald asked how the Applicant was going to open up the glass frontage on South Riverside Avenue. Ms. Schneider said although it would be difficult to do, they would try to make changes to make the South Riverside frontage more inviting.

Ms. Stephens asked Mr. Sperber how the proposed new height of the building would compare to the height of the building two doors down. Mr. Sperber said he thought it would appear no higher.

Mr. Macdonald then asked about the easement on the property. The Applicant said the owner had given an easement for part of the property to the Fire Department so that in an emergency the Fire Department could park there. Chairman Davis added that the easement had no effect on the Board's concerns.

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

Mr. Macdonald said he thought the width of the proposed parking spaces (8' 6") was rather small. Ms. Schneider replied that it was no different than parking spots for other South Riverside Avenue stores. In reply to Ms. Stephens' inquiry, she said that the plan has the required number of parking spots, that tenants will get assigned spots, and that customers will not be able to park in the assigned spots. A bike rack will also be provided.

Mr. Macdonald asked what the square footage would be in the smallest apartment to which Ms. Schneider replied 350 sq. ft.

Chairman Davis then asked Mr. Sperber if the variances would be required for any addition. Mr. Sperber replied in the affirmative. Chairman Davis then explained that the design itself does not effect the variances and Mr. Sperber added that the Planning Board would have the task of addressing the glass issue and the size of the parking spaces.

Mr. Olcott made a motion to grant a 2-foot 8-inch rear yard variance on the north side of the building, a 20-foot front yard variance from Benedict Boulevard to increase the required front yard setback range to 25' to 40', and a 37% transparent glass percentage variance for the street level Benedict Boulevard front façade in order to convert an existing 1-story commercial building to a 3-story mixed occupancy building with a maximum FAR of 0.8 with the condition that as part of its site plan review, the Planning Board specify measures to maximize the transparency and visibility of the interior first floor commercial space from the street level windows on the South Riverside Avenue façade. Ms. Wagner seconded the motion and the motion passed with a vote of 4 to 1. Mr. Macdonald voted against the motion.

Mr. Macdonald said he could not vote for the variances because he has concerns about the parking spaces, the glass frontage on South Riverside Avenue, and the small apartment size.

Mr. Olcott said that the purpose of the new zoning for the Harmon District was to promote new development and that Mr. Macdonald's concerns would be considerations for the Planning Board.

Mr. Razghandi said that with regard to not being able to see well into the South Riverside Avenue front window, there were shelves behind the windows because that is where the cash collection area is located and that the shelving provides coverage. He said a possible solution would be to frame the window differently and/or put film on the window.

b) Schuyler, Peter, Attorney for David Ferguson – 1 Wolf Road. Located in a RA-5 District and designated on the Tax Maps of the Village as Section 67.19 Block 3 Lots 3 and 3.1. Request for two front yard variances (corner lot) for an addition to the rear and sides of the single-family dwelling and an additional front yard variance for the existing front entry.

Chairman Davis recused himself from the application but said he would be available for questions about the history of the house. Mr. Olcott chaired the Schuyler-Ferguson application.

The two owners of the property, David Ferguson and Adam Abernathy were present tonight along with their Engineer, Ron Wegner, and their Attorney, Peter Schuyler, who presented the application. Mr. Schuyler had photos, a site development plan, and architectural plans on display for the Board. Mr. Schuyler also distributed to the Board a set of photos of the area and neighboring houses. The application package included a letter of support from Jari & Prosper Rouas, residing at 3 Wolf Road.

Mr. Schuyler gave a brief history of the house which he explained was originally on Griggs Lane and which had been relocated to the corner of Wolf Road and N. Riverside Avenue when State Rte. 9 was constructed. The house is at approximately a 45 degree angle to both Wolf Road and N. Riverside Avenue. The property slopes down in the back towards Rte. 9. The owners recently purchased a 35-foot wide adjoining parcel from the Town of Cortlandt. There are 2 easements on the property, one a drainage easement with the State of New York, the other a drainage easement with the Village.

The existing 1-story home has been owned by the current owners for 8 years. During that time the owners have made improvements to the property including a rear deck and landscaping. They are now proposing to add a garage, to extend and increase the size of the house with a second story, and to add a pool in the backyard. All the proposed changes conform to zoning requirements except for the front yard setbacks. The property, being a corner lot, has 2 front yards. The front corners of the proposed addition

would each require a front yard variance: 3.7' on North Riverside Avenue and 9.9' on Wolf Road.

Mr. Schuyler added that the neighbors on both sides of the owners were in support of the proposed project.

Mr. Wegner then spoke about the engineering aspects of the project. He pointed out that a structural engineer would be engaged to ensure the soundness of the retaining wall near the pool and deck. He also stated that the house sits down low and that the proposed new height from the average grade is 32', below the Zoning Code limit.

Mr. Macdonald questioned the height from the back of the house. Mr. Wegner said that in his opinion, it would not be that obtrusive and that trees on either side shield the house. He also said that the height for zoning purposes is measured from the front of the house.

Ms. Stephens said she had concerns about the stability of the wall but Mr. Wegner assured her that soil borings would be taken before the wall is designed and that they would make sure the wall would be stable. Ms. Stephens followed up with a question as to the square footage of the new home and Mr. Wegner replied that the total square footage will be 7,720 and the habitable square footage will be 6,500.

Mr. Macdonald asked what kind of landscaping was planned for the back of the house. Mr. Ferguson said the house sits in a bowl shape and tall plantings would be used at the base of the wall.

Mr. Macdonald had concerns about the Village drainage easement and questioned how a permanent structure could be constructed on an easement. Mr. Schuyler explained that they were planning on relocating the drainage pipes and to provide new pipes which would result in an improvement to the drainage system. He said he had discussed this with the Village Engineer, Dan O'Connor, and it was acceptable to Mr. O'Connor. He added that the proposed project would not affect the State easement. Mr. Wegner suggested that the Board could make it a condition that the Applicant(s) get a letter from Mr. O'Connor stating that the drainage pipe in the easement can be moved.

Mr. Macdonald said he would like to see copies of the easements.

Ms. Wagner then asked why the Applicant(s) can't make the changes without the variances. Mr. Schuyler said they could push the corners requiring the variances back but it would make the house look like a corner in the front which would not be aesthetically pleasing. He said that the proposed garage could be built without the need of the variances. He added that a hip roof design is proposed which reduces the overall height and is only adding an additional 10' to the overall height; the house is largely screened from other residents; and they would be using earth tones to help with additional screening of the house. He said the house would not be out of character with neighboring homes.

Mr. Macdonald said that the addition of the garage will result in a loss of view for the neighbors.

Mr. Schuyler then read from the letter included in the application package that addressed the factors of consideration in granting or denying the variances. He stressed that the unique placement of the house by the State from Griggs Lane had caused the issues and that the variances would not be needed if the house had been placed parallel to the road.

Mr. Olcott then opened the hearing to the public. First to step forward was Robert Hilpert on behalf of Kate Hilpert, his daughter and owner of 2 Wolf Road. He distributed photos to the Board taken from the front porch and second floor bedroom of 2 Wolf Road. He said that the proposal before the Board would obliterate the view for many people in the neighborhood, that the house could be made smaller or achieved in another way, that the proposal does not just diminish but usurps the view, and it is self-created. He said he also had concerns about the location of the pool and whether it was in the back yard or inside exterior walls. Another concern was whether the house is actually 3-stories if looked at from N. Riverside Avenue and if so would then require a height variance. He also had a question as to whether the State had jurisdiction since the property is within 500' of a State highway. He added that he had spoken with the Mr. O'Connor about these concerns. (Mr. O'Connor had determined the variances being sought were the only ones needed.) For these reasons, Mr. Hilpert requested an adjournment.

Next to step forward was Ann Marie Palagano residing at 145 N. Riverside Avenue. She was against the project stating that it would eliminate her river view and the view for other nearby neighbors. She said the Ferguson/Abernathy home is about 60 paces from four residences that go back to the 1800s and the proposed project would change the character of the neighborhood. Later on in the meeting, Ms. Palagano pointed out that the blueprints did not get to the Engineering Department until last Wednesday.

Eliezer Becher of 137 N. Riverside Avenue was next to speak against the proposed project, feeling that it is totally out of character for the neighborhood. He also said he was unsure that the adjoining neighbors were in favor.

Lewis Hatton of 135 N. Riverside Avenue also spoke against the project and said he was horrified when he saw the renderings. He added that although the house sits in somewhat of a bowl shape lot and the house is attractive, the addition of 10' to 15' would create an undesirable wall.

In response to the objections raised, Mr. Schuyler said that he and Mr. Wegner had spent countless hours with the Village Engineer and Mr. O'Connor had determined that the front variances were the only ones needed. Mr. Schuyler continued to say that the Applicants have a right to expand their house and will do so whether or not the variances are granted. The addition of the garage needs no variances and unfortunately will obstruct the neighbors' view. He said the Applicants have taken steps to mitigate the impact such as using a hip roof design as opposed to a peak roof. He said the proposed

size of the house is within code and that there are other 2 and 2½ story houses in the area. In conclusion, he said that there was no reason to table the application.

Ms. Stephens stated that one front yard variance is minor and one is not and then asked what the Applicants might do if just the minor variance were to be granted. Mr. Schuyler replied that the section of house (without the variance) would have to be pushed back, which would make the front of the house look strange. This would in turn result in interior design changes which would create a greater impact because a full wall would probably be needed. He again stressed that the garage can be built as planned without variances. He also stressed that the Applicants are attempting to mitigate the impact with the use of vegetation and that the house is set in a bowl shape lot.

Mr. Abernathy said that he had bought the house in 2007 and it was Mr. Abernathy's and Mr. Ferguson's first house together; that they had looked elsewhere but liked the area and would like to stay in the area. Mr. Ferguson added that they tried to use a lot of stone, earth tones, and clean lines in the proposed design.

Mr. Hilpert spoke again to say that he was not convinced that the variances being sought are the only ones needed and he would like to have more time to look into the application. Mr. Schuyler's reply was that this was just speculation and it had been determined that what was presented in the application was all that was needed and that if there were any concerns, tonight's meeting was the place and time to express them.

Mr. O'Connor, seated in the audience, pointed out that a front yard variance of 1.3 feet for the existing front entry vestibule is also needed and would be covered in the application by the front yard variance request for Wolf Road.

Mr. Olcott closed the public hearing and then asked the Board for their thoughts. Mr. Macdonald said he thought that too much information is missing, in particular about the easements and the retaining wall and that the neighbors in close proximity all agree there will be an impact to the area. Ms. Wagner questioned whether the retaining wall is within the Board's purview but added that she was inclined to not vote for the application. Ms. Stephens said she would like additional information and Mr. Olcott said he would want to pursue jurisdictional information. With those thoughts, there was a consensus to postpone the Board's decision but Mr. Schuyler, with the consent of the owners, requested that the Board go forward and make its decision tonight.

Ms. Wagner made a motion to grant a 3.7-foot front yard variance from the Wolf Road front yard setback requirement. Mr. Olcott seconded the motion. The motion was denied with a vote of 1 to 3. Ms. Stephens voted in favor; Mr. Macdonald, Mr. Olcott and Ms. Wagner all voted against the motion.

Ms. Wagner next made a motion to grant a 9.9-foot front yard variance from the North Riverside Avenue front yard setback requirement. Ms. Stephens seconded the motion. The motion was denied with all four Board members voting against the motion.

Ms. Wagner then made a motion to grant a 1.3-foot front yard variance for the existing front entry vestibule. Ms. Stephens seconded the motion and the motion passed with a vote of 3 to 1. Mr. Olcott, Ms. Stephens, and Ms. Wagner voted in favor while Mr. Macdonald voted against the motion.

3. APPROVAL OF MINUTES:

Ms. Stephens made a motion to approve the minutes and the resolution of the February 11, 2015 Zoning Board of Appeals meeting. The motion was seconded by Mr. Macdonald. The motion passed 3 - 0. Mr. Olcott and Ms. Wagner abstained from the vote having been absent from the February meeting.

Ms. Stephens wanted it noted that the Village Liaison was absent from tonight's meeting.

4. ADJOURNMENT:

The meeting was adjourned at 11:05 P.M.

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals