

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
June 8, 2016

PRESENT: Rhoda Stephens, Chair
Alan Macdonald
Peter Lavery
Doug Olcott
Christine Wagner

ALSO PRESENT: Joe Sperber, Assistant Building Inspector
Trustee Ann Gallelli, Village Board Liaison

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of June 8, 2016 was called to order at 8:00 P.M.

2. NEW BUSINESS:

- a) **Sarcone, Christopher – 35 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 31. Request for side yard variance and total side yard variance for proposed replacement and extension of side entrance deck.

Mr. Sarcone presented the application. He said he purchased the property a couple of years ago with the existing 5.5-foot by 5.5-foot deck. He said the house was built under the old Village Code and the deck does not adhere to the present building and zoning codes. He would like to improve the deck and extend its length to 14 feet while legalizing it. In order to do that he needs a .35-foot side yard variance and a 2.62-foot total side yard variance. He said he has spoken to his neighbors about the proposed deck and received no objection. He included a letter of support from the neighbor on the adjoining side of the house where the deck is located – Mr. Robert Seale of 37 Old Post Road South. He also included photos of the existing deck and side yard.

Mr. Macdonald asked in which direction is the deck being extended and why the Applicant is extending the deck. Mr. Sarcone replied that he is proposing to extend the deck towards the back of the house and would like to be able to place a small table on the deck for more enjoyment of the deck.

Chairman Stephens asked if the fence at the rear of the property belonged to the Applicant to which Mr. Sarcone replied in the affirmative.

Chairman Stephens opened the hearing to the public. With no one stepping forward, she noted that there was no one objecting to the variance. She then closed the hearing to the public.

Mr. Lavery then made a motion to grant a .35-foot side yard variance and a 2.62-foot total side yard variance for the proposed replacement and extension of the side entrance deck. Mr. Olcott seconded the motion. The motion passed with a vote of 5 to 0; all members voting in favor.

- b) McCluskey, Patricia, Trustee for Bell Family Trust – 175 Old Post Road North.** Located in a RA-60 District and designated on the Tax Maps of the Village as Section 67.15 Block 1 Lots 8 and 8.1. Request for interpretation of Village Code Section 230-170B and for frontage variance from that same Code Section for lot no. 3 of a proposed 3-lot subdivision if so interpreted.

Mr. Lavery recused himself from this application explaining that he lives on Finney Farm Road in close proximity to the Applicant's property and has shown and discussed the Bell Family Trust property on numerous occasions.

Ron Wegner, Project Engineer, was in attendance to present the application. He gave the Board an overview of the proposed project explaining that the 18.7 acre property would be divided into 3 lots. Two lots would have existing homes on them and the third lot would become buildable with a proposed house on it. The two existing homes have a common driveway off of Old Post Road North; the area underneath that driveway also provides shared access to municipal water and sewer. It is proposed that the common driveway and water and sewer access also be shared by the third residence. The frontage requirement for the third buildable lot is 20 feet and the current proposed frontage is 19-ft, 11-inches resulting in a variance request of 1 inch. He said that beyond the frontage issue, the lot is zoning compliant. He further explained that the second component of frontage is suitable ingress and egress and he is seeking the Board's interpretation on whether the third lot complies. He added that the property has a driveway that meets fire code toward North Riverside Avenue and that provides access to Finney Farm Road. The proposed use of the common driveway would eliminate the need to pursue disturbance of the wetland area. Mr. Wegner had also supplied a letter to the Board in the application package addressing the 5 factors of consideration when granting a variance.

Chairman Stephens asked what the current status is with regard to access to the lots. Mr. Wegner replied that the existing driveway provides access to lots 1 and 2 and the new portion of the driveway would allow access to lot 3. He explained that there are cross easements in effect and that similar shared driveway and cross easement arrangements are not uncommon and exist in the neighborhood. In response to Chairman Stephens inquiry, he further explained that police and fire personnel currently use the existing driveway for ingress and egress to the property.

Mr. Olcott asked about parcel 4 shown on the drawings being used during the presentation. Mr. Wegner said it was just another piece of the Bell property.

Chairman Stephens then asked Mr. Sperber if the Fire Chief and Police would need to sign off on the ingress and egress issue. Mr. Sperber replied that the Fire Chief would need to sign off as well as the Planning Board.

Mr. Macdonald asked about whether lot 3 would get new sewer pipes and what their size would be. Mr. Wegner said that lot 3 would be getting new sewer pipes in the current driveway area to minimize disturbance and minimize grading. Any extension to the Village pipe would be 8 inches in diameter and the rest would be 4 inches.

Chairman Stephens asked if an easement through the other two owners' property would be needed for lot 3. Mr. Wegner said the easement(s) would be in place before the sale of any property.

The hearing was then opened to the public and Mr. Michael Eisenkraft of 30 Finney Farm Road stepped forward to speak. Mr. Eisenkraft said that tonight was his first opportunity to express his opposition to the project even though there had been other meetings about it. He said that his property would be directly next to the new construction; that he and his wife had purchased their property 3 years ago looking for peace and quiet. He said the property has been a single property since 1929 and it should stay that way. The proposed road is in the wrong place and will cause soil erosion; changing the road to the other side would fix that issue. He said that there is neighborhood opposition to the project and that a neighborhood plan would be more desirable.

Chairman Stephens explained the project approval process to Mr. Eisenkraft and why tonight was his first opportunity to express his thoughts about the project. Mr. Eisenkraft spoke again saying he is against the application.

Mr. Wegner added that any change to the location of the road and driveway would mean that more trees would need to be taken down and that drainage issues would be addressed with a drainage plan.

Next Greg and Lisa Cohen expressed their opposition to the project. Ms. Cohen said she was concerned about having 33% more cars on the driveway that runs adjacent to her house and that she too has concerns about emergency situations even though the Fire and Police will address the issue in the future. Also of concern is the construction period with additional construction vehicles and how that all would impact her family's lifestyle. She said she also felt that she would end up with drainage issues from additional runoff.

Mr. Wegner then addressed some of the concerns. He said that the property could potentially be development in a more intense way with more than 3 parcels. He said that a 6-lot subdivision had been proposed in the past and then had been withdrawn. He added that there may be a little more traffic as a result of the project but the intent of the project is to minimize the disturbance especially in the lower area; that a flat and wide area was sought, and that erosion control and storm water control will need to be addressed down the road as part of the approval process.

Mr. Macdonald asked about the 50-foot utility easement shown on the drawings. Mr. Wegner explained that the easement is a utility easement with Hudson National Golf Club (HNGC) but that there is nothing there right now. It was originally intended for sewer and water access but HNGC ended up using Arrowcrest Drive. Mr. Macdonald

then asked if HNGC could potentially use the easement in the future for sewer and water access to which Mr. Wegner said HNGC could.

Ms. Wagner asked for confirmation that the proposed driveway for lot 3 is 1 inch shy of the required width. Mr. Wegner did so confirm adding that he could potentially throw another driveway into the plan as an alternative.

Mr. Eisenkraft then spoke again saying that another issue is the lights from the driveway which would go directly into his house.

No one else stepped forward to speak so Chairman Stephens closed the hearing to the public and asked the Board for its thoughts.

Mr. Macdonald said that HNGC has a 50-foot easement through the property and that we don't know anything about the easement. Mr. Olcott said that the drawings indicate it is for utilities. Mr. Macdonald added that a variance is being sought for a property that HNGC has rights to and we are not sure what those rights are.

Mr. Wegner said that whatever the rights are now, those rights will still be in effect after the subdivision takes place.

Ms. Wagner asked whether Mr. Wegner is seeking the variance for the 20' required frontage and for the egress and ingress. Mr. Wegner replied that he is seeking the Board's interpretation on both. He added that in 2005 there was a similar situation at 214 Grand Street; there was physical frontage but like this situation access was required. A variance was granted.

The Secretary then left the meeting to find and print the easement agreement for the Board. She returned and distributed copies to the Board and to Mr. Wegner.

Ms. Wagner then suggested that Mr. Wegner will need to coordinate with HNGC with regard to the easement. Mr. Wegner said it would probably be ironed out as a legal issue and that he if the Board needs something from HNGC he would get it.

Ms. Wagner then said that the Applicant is seeking a variance for a property that another party has rights to and that without assurance from that party that it has no issues, the Board cannot grant the variance.

All members of the Board agreed that the Village Attorney look at the easement and that anything Mr. Wegner brings back to the Board with regard to the easement held by HNGC be reviewed by the Village Attorney. The application will be continued to the next meeting of the Zoning Board.

Trustee Gallelli then gave the Board some background information with regard to the HNGC easement. She said that after the original golf club had acquired the pieces of land for the club, it bought Finney Farm Road. The club saw Finney Farm Road as its

main access. In anticipation of that, the club established a number of easements for utilities. The club ended up not using Finney Farm Road but rather Arrowcrest Drive as its primary access and it no longer needed the easements originally established; however, these easements are still in existence. She also said that the Water Control Commission had no objections with regard to any wetland issues.

3. APPROVAL OF MINUTES:

At last month's meeting, the final Resolution granting ABM R. E. Mgmt. Corp. a variance at April's meeting had not been approved. There were only 4 Board members present at last month's meeting – Chairman Stephens, Mr. Macdonald, Mr. Olcott and Ms. Wagner; Mr. Olcott abstained from the vote to approve the final resolution having been absent from April's meeting at which time the variance was granted. At last month's meeting Chairman Stephens and Ms. Wagner voted to approve the final resolution as written and Mr. Macdonald voted against the final resolution as written. The vote taken at May's meeting was 2 to 1 in favor of the final resolution. Mr. Lavery (absent from May's meeting) had emailed the Secretary his approval of the final resolution after the meeting, but a formal vote was taken tonight with all members present who had voted on the variance.

Chairman Stephens made a motion to approve the final resolution granting ABM R. E. Mgmt. Corp. a variance from Village Code requiring a sprinkler system in the proposed building addition. Ms. Wagner seconded the motion. The motion passed with a vote of 3 to 1; Chairman Stephens, Mr. Lavery, and Ms. Wagner voted in favor; Mr. Macdonald voted against the motion; Mr. Olcott abstained from the vote. The motion passed and the final resolution as written was approved.

Chairman Stephens made a motion to approve the amended minutes of the May 11, 2016 Zoning Board of Appeals meeting. The motion was seconded by Ms. Wagner. The motion passed 5 – 0 in favor.

4. ADJOURNMENT:

The meeting was adjourned at 9:45 P.M.

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals