

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
September 14, 2016

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

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

ABSENT: Christine Wagner

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of September 14, 2016 was called to order at 8:05 P.M.

2. NEW BUSINESS:

- a) **Crowe, John & Stephanie – 195 Cleveland Drive.** Located in a RA-25 District and designated on the Tax Maps of the Village as Section 68.17 Block 3 Lot 47. Request for front yard variance for the existing greenhouse addition to the primary structure.

John and Stephanie Crowe were present at tonight's meeting. Ms. Crowe presented the application. She said that she and Mr. Crowe had purchased the house in 2002 and have not altered the outside of the house at all. She said a fire burned the house in 1982 and it had to be rebuilt. She said the plans were approved and a certificate of occupancy was issued by the Village for the rebuild which included the greenhouse addition. The greenhouse is setback 33 feet from the front property line rather than the required 40 feet needed for the property's zoning district. The house sold in 1999 and the new owner had changed some of the glass of the greenhouse but there was no change to the footprint of the house. Again no issues were uncovered and a certificate of occupancy was issued. She continued to say that the problem had arisen recently as a result of the pending sale of the house.

Chairman Stephens asked if the sunroom has been in existence from 1983 and Ms. Crowe said it was, and that the dated, approved building permit, is in the property file in the Building Department.

Chairman Stephens then opened the hearing to the public. With no one stepping forward to speak, she closed the hearing.

Mr. Macdonald then made a motion to grant a 7-foot front yard variance for the existing greenhouse addition to the primary structure. Mr. Olcott seconded the motion. The motion passed 4 to 0 with all Members present voting in favor.

- b) Aranguren, David & Carolyn – 1 Palmer Avenue.** Located in a RB District and designated on the Tax Maps of the Village as Section 78.08 Block 4 Lot 6. Request for variance from Village Code for rear and side yard setback requirements for existing above ground pool.

David and Carolyn Aranguren were in attendance tonight to present the application. Ms. Aranguren said they had installed the pool a number of years ago but didn't know they needed a permit to do so. They then had a survey of the property done and it revealed that the pool did not adhere to the 10-foot setback for the side and rear yards. They only have a 6-foot setback in both yards thus requiring a 4-foot side yard variance and a 4-foot rear yard variance. She said she has spoken to the two adjoining neighbors most affected by the pool and that they had no objection to the variance request.

Mr. Olcott asked what caused them to become aware of the problem and they said that they had received a letter, dated 6/15/16, from the Village Engineer, relating to the problem.

Chairman Stephens asked about the height of the pool and whose wall was pictured in the photos included in the application documentation. Ms. Aranguren said there is a 5-foot privacy fence and the wall was theirs.

Mr. Olcott asked if the topography of the property prevented the pool from being placed somewhere else. Ms. Aranguren said that was correct; that trees would need to be dug up along with their roots which would ultimately probably kill the trees. Mr. Olcott also noted that there were letters of support from the two most affected neighbors, Grace Coward of 5 Palmer Avenue and Judy Vlad of 28 High Street.

The hearing was then opened to the public and with no one stepping forward Chairman Stephens closed the hearing.

The Board then discussed the application. Chairman Stephens suggested possibly granting the variance with the condition that it be in effect only as long as the Applicants live there. Mr. Olcott suggested new owners would need to come back to renew the variance and Mr. Lavery suggested conditioning the variance on this particular pool.

Ms. Aranguren then said that the pool will need to be replaced soon due to rusting. When Mr. Macdonald then suggested that a replacement pool should adhere to the required setbacks, Mr. and Mrs. Aranguren said the topography of their property would prevent them from relocating a replacement pool.

Mr. Lavery stated that with the goal to stage out non-conformities, the variance could be granted for the existing pool and should the pool need replacement the variance would need to be “renewed”. The other Board Members agreed with Mr. Lavery.

Mr. Lavery followed this with a motion to grant a 4-foot rear yard variance and a 4-foot side yard variance for the existing pool structure with the condition that the variance remain in effect only as long as the pool at issue exists; any substantial repair or complete replacement of the pool would require a new application to the Zoning Board. Chairman Stephens seconded the motion and the motion passed with all Members present voting in favor.

- c) **O’Callaghan, Seana – 4 Croton Point Avenue.** Located in a LI District and designated on the Tax Maps of the Village as Section 79.17 Block 1 Lot 6. Request for variance from off street parking requirements of Village Code Sections 230-37 and 230-51 for the proposed relocation and reopening of the Green Growler Grocery as a food and drink establishment.

Mr. Lavery wanted it noted that he has worked with Ms. O’Callaghan in the past. With no pending issues, he felt that nothing in the past would prevent him from hearing the application. Mr. Olcott wanted it noted that he knows Ms. O’Callaghan from the neighborhood but felt comfortable hearing the application also.

Ms. O’Callaghan then explained the variance she was seeking. She said she hopes to move the Green Growler Grocery to 4 Croton Point Avenue, but it has been deemed that she needs 2 additional off street parking spaces. Since that determination, she has uncovered some possible solutions. There are 4 metered parking spaces across from the Village lot; she has spoken with Village Manager King who said she could possibly rent out 5 spaces from the Village; and she has spoken with Stephen DeName who said he could find spots in his lot. She also pointed out that there are about 2000 spaces in the adjoining train station parking lot and that at certain days and times the Village residents can use the lot for free.

Mr. Macdonald asked how many spaces were available now and Ms. O’Callaghan said there were 23.

Mr. Olcott asked about entry to her establishment and Ms. O’Callaghan said it needs to be worked out.

Ms. O’Callaghan said there is a mobile phone app to pay for parking in the daily lot which is contiguous to the property and said that other municipalities make money during the day for parking.

Chairman Stephens asked what would be her hours of operation. Ms. O’Callaghan supplied the hours which were included in the parking analysis.

Mr. Sperber said that the suggested 2 parking space variance would be for a saturated scenario but that mitigating circumstances need to be looked at, such as the fact that the

Green Growler Grocery would be opening when the other businesses were closing and that most of the real estate agents are not in their office all day.

Chairman Stephens suggested that the Board should address the possibility of different businesses moving in and out of the space.

Mr. Macdonald asked what the Zoning District for the property is, and Mr. Sperber replied with "LI - Light Industrial", and then reminded the Board that the only issue of concern for the Board was the number of off street parking spaces.

Mr. Olcott said that from his standpoint, because of all the parking in the area, he has no issue with the parking situation. Chairman Stephens said she has had problems finding parking during the day.

Mr. Lavery added that the policy behind the parking rule is to not clutter the street; that there had been parking allowed in front of the building but that is no longer true because it had created a hazardous situation.

Mr. Olcott remarked that customers could also park along Benedict Boulevard.

Mr. Lavery asked how many people would be allowed in her establishment and Ms. O'Callaghan replied with "49".

The Board then discussed the application among themselves.

Mr. Lavery stated that there was access to public transportation as well as taxis in the area and Ms. O'Callaghan said that the property is next to a bike lane. Mr. Lavery also said that he thought the hours of operation for the Green Growler Grocery were key; that the hours are later in the day at off-peak times. He said he felt there was ample parking in the area.

Mr. Olcott said he uses the A-Lot once or twice per month in the early afternoon and never has had problems getting a parking spot.

Mr. Sperber then asked Ms. O'Callaghan if she was going to start the dialogue with the Village Manager with regard to renting the 5 parking spaces in the Village lot and Ms. O'Callaghan said she would like to hold off for now until she sees if she needs them and prefers to hold off increasing her operation expenses.

Mr. Olcott asked if the Village Engineer's office had done the parking space analysis and Mr. Sperber confirmed it. Mr. Olcott added that in his line of work which deals with housing issues, it is not uncommon for a Board to use a municipal lot to count toward off street parking. He then said that given the amount of off street and metered parking in the area, he didn't think additional spaces were needed, but if the Board felt a variance was needed he would not have an objection to the variance.

Trustee Gallelli told the Board that after having consulted with the Village Manager and the Village Attorney, the application would be subject to SEQRA and would need to be referred to the Waterfront Advisory Committee if a variance is required.

The Board continued its discussion and Mr. Sperber reminded the Board that the Village Engineer's calculation looked at the worst possible scenario with everyone on site at the same time.

Chairman Stephens then concluded that the majority of the Board felt there was ample off street parking, that parking would not be an issue at the times of operation of the Green Growler Grocery, and that a variance was not needed.

Mr. Macdonald said he felt that parking could potentially be an issue; that it is a very sensitive area for traffic and parking. He continued to say that there could be people running in and out of the businesses on site.

Chairman Stephens then made a motion declaring the Board has determined that an off street parking variance from Village Code Sections 230-37 and 230-51 is not required and that there is enough off street parking in the area to satisfy the hours the Green Growler Grocery would be operating. Mr. Olcott seconded the motion. The motion passed with a vote of 3 in favor, 0 opposed, and 1 abstention from Mr. Macdonald.

- d) Brodnick, Andrew, Agent 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. Interpretation/Appeal of Village Engineer's decision that variance from Village Code Section 230-40B is required for the caretaker's cottage and the swimming pool which are both existing accessory structures that project nearer to the street on which the principal building fronts than such principal building.

Mr. Lavery recused himself from the application, once again explaining that he has had discussions and given advice on legal issues with regard to the property.

Attorney Brodnick was present tonight to represent the Applicant. He started off by telling the Board that the main house on the property had been build back in 1929 before there was any zoning code in the Village. A building permit for the pool had been obtained in 1945 and constructed thereafter and a building permit for the 1-1/2 story cottage had been obtained in 1951 and constructed thereafter. He said he is asking for an interpretation, whether under the 1931 code or the 1961 code, that neither structure violates Village Code according to the definition of front yard. The issue arose after inquiries were made about some documents in the file. In one of the documents, the Village Engineer stated that the pool and cottage did not comply with Code.

Mr. Brodnick then proceeded to read the definition of front yard from both the 1931 and the 1961 Zoning Code. He said that the 1931 definition of "unobstructed space extending from the street line to the line of the part of a main building nearest thereto..." and the

1961 definition of “unoccupied ground area fully open to the sky between the street line and a line drawn parallel thereto” cannot be applied to the property. There is no front yard open space on the property.

He described the property which he said is a flag lot comprised of 18 acres. There is tremendous elevation on the property and there is limited visibility from the street through trees; the view is clearly obstructed by tremendous vegetation and there are no open spaces between the street and the structures. He continued to say that as a practical matter the Code means to obstruct vision of the accessory structures from the street and these two structures have also existed for so long. He said that he is asking for an honest and reasonable interpretation; that the two structures are not in the front yard because what is being interpreted as the front yard is clearly an obstructed area; the cottage can be seen slightly and the pool is about 600 feet from the street.

Mr. Macdonald asked the square footage of the cottage and Mr. Brodnick replied that it is between 1200 and 1500 square feet and is 1½ stories. He added that in 1931, the cottage wasn't defined as an accessory structure. Mr. Macdonald then said that if one interpreted the driveway as the street line, the cottage could be seen as being in the side yard.

When Mr. Sperber said that the property could be interpreted as a corner lot, Mr. Brodnick added that, putting the Code aside, if one looked at the front of the house, the pool is located in the rear yard.

Mr. Olcott asked what is currently going on with the property. In response, Mr. Brodnick said that there is a potential purchaser of the property and that the Planning Board had granted preliminary subdivision approval.

The Board then discussed the application.

Mr. Macdonald said he did not think a variance was needed; that the property is so big and that the issue could be gotten around by turning the 50-foot driveway into a Village street. Mr. Olcott said he was also fine with not requiring a variance and that if a variance were to be needed (and granted), the outcome would be the same.

Mr. Macdonald then made a motion declaring that the Board agrees with the Applicant's interpretation of the definition of a front yard in the 1961 Zoning Code and that a variance from Section 230-40B of the Zoning Code is not required for the pool or the cottage. Mr. Olcott seconded the motion. The motion passed with a vote of 3 to 0. Chairman Stephens, Mr. Macdonald, and Mr. Olcott all voted in favor; Mr. Lavery had recused himself.

3. APPROVAL OF MINUTES:

Chairman Stephens made a motion to approve the minutes and amended resolutions of the July 13, 2016 Zoning Board of Appeals meeting. The motion was seconded by Mr. Lavery. The motion passed 3 to 0 in favor. Chairman Stephens, Mr. Lavery, and Mr.

Macdonald voted in favor; Mr. Olcott abstained from voting because he was absent from the July 13th Meeting.

4. ADJOURNMENT:

The meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals