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VILLAGE OF CROTON-ON-HUDSON SPECIAL MEETING OF THE ZONING BOARD OF APPEALS AND COMPREHENSIVE PLANNING COMMITTEE MEETING MINUTES OF MARCH 3, 2010.

ZBA MEMBERS PRESENT: Seth Davis, Chairman
Rhoda Stephens
Roseann Schuyler
Alan Macdonald

COMPREHENSIVE PLANNING C OMMITTE MEMBERS PRESENT:
Ted Brumleve
Paul Doyle
Kurt Carlson

ALSO PRESENT: James Staudt, Village Attorney
Harlan Sexton, Consultant - Buckherst Fish & Jacquemart
Daniel O'Connor, Village Engineer
Joseph Sperber, Asst. Bldg. Inspector

This meeting is being held for the purpose of discussing proposed revisions to the Zoning Code.

The meeting came to order at 8:00 P.M.

Seth Davis, ZBA Chairman – The ZBA had requested a clarification with respect to the language and certain concepts of the Village Code and the Village Board's reaction was that the main issue in front of them was dealing with fences and walls and that this was something the Comprehensive Planning Committee had already discussed. The Zoning Board felt we would like to discuss it together.

Brumleve – As an update we will also be focusing on the definitions of Customary Home Occupations and the possibility of stricter off street parking regulations for vehicles such as trailers, RV's, and boats.

Davis – We have also asked to have James Staudt the Village Attorney to be present at this meeting for his advice.

Mr. Davis requested Rhoda Stephens to summarize the Zoning Boards concerns with respect to certain Zoning Ordinances and interpretations.

Stephens – We are missing certain definitions, Such as, the definitions of fences, and buildings. When is a wall a building, as opposed to being a wall, and not a retaining wall that is higher than 6 ½ ft. We also have concerns about lot lines in terms of someone adjusting the lot lines. For example; If someone owns two parcels next to each other and the property owner adjusts the lot lines to accommodate a new addition in order to not need a variance, etc., and in doing so the second lot then becomes non-conforming, but is still recognized as two separate lots. Then after the fact; the property owner tries to justify that the substandard lot now qualifies as a non-conforming lot and then comes for variances, etc. to build on it.

Sexton - There is nothing in your existing code that states when a lot is considered to be a non-conforming lot?

Carlson - As a member of the Comprehensive Planning Committee and with respect to the whole business of how and what we have been doing the last eleven years, is to try and get a consensus for a larger plan. Then in the future we can get involved in the smaller issues, or whether or not we even need the Comprehensive Planning Committee, and finding out just what our role is in determining issues such as this, and just how far do we go when dealing with issues such as fences, etc. .

Davis – One way or another we are saddled with that Code. We the Zoning Board do not look at the big picture, we look at the small picture, and how we can apply that Code. Being newly appointed as the ZBA Chairman, I have not gone through enough hearings myself yet to be able to give you the worst cases but Rhoda Stephens can. There have been some problems with applications.

Stephens– We have been to the Village Board in the past asking them to tighten up certain sections of the codes and to give us more specific definitions and to be a little more clear as to their intent of the Code.

Carlson– With respect to the Zoning Board looking for answers to these issues, we the Comprehensive Planning Committee are only an advisory Board to the Village Board and Trustees.

Gallelli – There are definitely two different Boards here, but the Comprehensive Planning Committee has made certain recommendations. The Zoning Board has very specific situations where they have trouble making certain decisions. I think there is a difference between the two roles. They may want to look at the issue of fences from a broader point of view and as far as other Boards they may want to make a more general recommendation, but the Zoning Board needs to make more specific recommendations.

Boyle – We are sort of an Advisory Board. The Zoning Board of Appeals is a Quasi Judicial Board and makes decisions in acceptance to the code.

Stephens – The applicant may sometimes file for an Article 78 because they felt that our decision was arbitrary and capricious.

Brumleve – My thoughts are; if we can clarify or add definitions where necessary we have taken a big step towards clarifying their questions. As is true with many events we need to find a happy medium that is not restrictive. You also mentioned fences and walls and I have mentioned a number of things I would like to address such as Customary Home Occupations and parking restrictions. We also need clarity of words such as; adjacent, abutting, contiguous, and neighboring. They need more clarity, correct?

Stephens – Yes. Sometimes the law book definition is helpful, but we do not always have that with us and sometimes others refer to different dictionaries.

Staudt – Stated that the best way to address these issues is to find examples of cases that have caused problems, then the Board would be able to be more specific when interpreting the Code and regulations. Such as what is attached and what is not considered to be attached.

O'Connor – The issue with respect to a structure being attached or not attached usually comes up with accessory structures and garages. A detached accessory structure cannot be closer to the front property line than the primary structure and only needs to be five feet from the side and rear property lines. But, you may need a variance if you attached the accessory structure to the house because the setback requirements would change, due to it becoming part of the primary structure.

Staudt – I have dealt with that issue before.

Brumleve – It is logical to consider each word one by one. Such as, the word "attached".

O'Connor – Also such as when does an accessory structure become part of the primary structure? Is it from an architectural standpoint when it is actually attached to the primary structure?

Staudt – They have different rules for whether they are attached or detached. Other Ordinances I have seen require it to have heat, and it cannot just be a simple connection in order to be considered part of the house. There are also Building Codes that states it cannot be free standing. So we need to know where and how the people have tricked the ordinance.

Brumleve – Attached means there are two uses and you are joining them. If you were to join a house and garage that was twenty five feet away, with a roof or a breezeway, it would not be considered attached.

Staudt – If we took that concept the Code would state "Dwelling attached"? This would mean that it would not be considered to be attached unless one of its walls is also a wall which is attached.

Brumleve – That is as close as you can get to an interpretation.

Carlson - There are so many ways of interpreting it, there is always a way to trick it. That is my opinion.

Stephens – It is not extremely restrictive.

Schuyler – Having a standard to apply will help us in our work and making our determinations. It will allow us to create a more dependable body of interpretation than with the absence of it.

Davis – For instance you can have an attached garage, but to get there we have to have a dictionary definition as well as a Code definition.

O'Connor – If someone were to come to the Building Dept. with this, I can review it and make a determination that it does not need to go to the ZBA, or I can say this is attached and it will need to go to the ZBA and then you the ZBA will make a decision to grant or not to grant the variance.

Staudt – Does this issue come up mostly with garages?

Stephens – Yes. We also find that they attach the garage so they can later add on more living space to the house by saying that the "garage" is now part of the main structure.

O'Connor – Say there was a house and a garage they wanted to join together creating a giant primary structure. Then that five foot setback that applied to the original garage no longer applies once it is attached to the primary structure. So, they would then need to go to the ZBA for approval for the proper setback dimensions, etc. In that case the variance can be denied.

Staudt - When it was not attached, it was not an issue. But, when they attached it, it then became an issue, because they then needed the variance because it no longer fell under the five foot setback requirements for an "accessory structure". It can be difficult determining, if it is just attached as a portico, or if it is heated or unheated, etc. That is where we usually see this issue. Maybe we should focus on; if is has a party wall.

O'Connor – Or, if it looks like the primary structure is integrated properly, with proper setbacks, then I can make a decision it does not need to go before the ZBA. If it has less than the required setbacks, etc., then it has to go before the Zoning Board for a decision.

Brumleve – Regardless of what foundations you are going to make the attachment could just be a roof adjoining two separate buildings?

O'Connor – Then that would be considered a typical breezeway, it is just a roof over a walkway. Then the Board will need to make a decision whether to allow them to attach it or not.

Brumleve – Maybe attached in this instance could be described as two structures sharing a common wall that is sharing a common enclosed space. If the breezeway is enclosed you could then make the accessory structure part of the primary structure.

O'Connor – Also, if it is heated or unheated.

Staudt – Suggested using the wording "Two structures that share a common wall, or are connected by a common enclosed space, or you could use the term "permanently enclosed space".

Carlson - Could you put a structure up with only a concrete slab? You can actually enclose a space with just a slab.

O'Connor – You could have it seasonal as opposed to all season.

Macdonald – If two foundations touch, is that considered part of the primary structures?

Staudt – If the enclosed space was required to be a building according to building code definitions, and if it is used as habitable space, it needs to be heated. Also, would you want any limitations with respect to the length allowed?

O'Connor – That is a good idea.

Sperber –Wouldn't, that be covered by the setback requirements?

Staudt - The regulated space can be more important than how long it is.

Sexton- This is a typical issue. The difference is defining it and you need to.

O'Connor – If someone decides their garage is a distance from the house and they want protection when they are going to and from the garage, by connecting a roof from the house to the garage, then the garage will still be considered to be an accessory structure.

Staudt – It will then be still considered as an "unattached accessory structure".

Brumleve – The next issue is walls.

Mr. Brumleve referred the Board to a hand-out that he had submitted to the Boards and referred to the definition of fences and walls according to Code.

Brumleve – Now tell me what is a building and what isn't?

Mr. Davis referred to the Code and stated - There are a lot of definitions with respect to a building but there is no guidance with respect to fences.

Brumleve – From my perspective a fence is measured from whatever connection is holding it up.

O'Connor – We need a clarified statement that any retaining wall above 4 ft. high is a building and under 4 ft. it is a retaining wall. It is not clear.

Brumleve – Under the definition of walls you can also add a sentence that states a wall in excess of 4 ft. is also subject to the definition of a building.

Carlson – Maybe it should state that it is measured 4 ft. from grade.

Staudt – What is the concern? Is it that the wall is too high or is it an engineering issue?

O'Connor – A safety issue from an engineering standpoint. If a retaining wall were to be 4 ft. in height it would then need a special permit. Otherwise it falls under the definition of a wall. Sometimes, people just build a wall right on their property line, they don't ask, they just do it because they do not want to come for building permits for this. Four feet for a wall is a standard measurement. If it is going to be six feet high, then it can be a safety issue. That is when it would require special permits.

Staudt – Are you comfortable with saying any wall/retaining wall over 4 ft. high will be considered to be a building?

Discussion followed with the Village Engineer & Asst. Building Inspector, with respect to the possibility of having a four foot high retaining wall, that is tiered and separated by earth, and possibly have a span of 25 ft., it would then be considered a safety issue.

Brumleve – I do not know how we would deal with that. That is an engineering call. The key is to be able to have the Village Engineer look at the public safety side of these issues.

O'Connor – It is one retaining wall system if the walls support each other.

Carlson – There are two different issues here. One minute I am landscaping my yard and the next minute it is a retaining wall or if we have height issues it could be a building.

O'Connor – We usually use a 45 degree angle. From an engineering standpoint, if it acts as one system and it is far enough apart that they are acting independently, then it is just a three foot wall.

Staudt – From your description, I think the wording "system" would work.

O'Connor – I have no problem with the term "System" being used.

Sperber – If you are allowed to do that and it is not considered a system then you can start construction right on the property line. Otherwise, setbacks are involved and Zoning issues come in.

O'Connor – Over four feet you need a building permit. Then the issue is when does it become an accessory structure and that is when all the rules and setbacks apply.

Staudt – Sometimes you can have an issue of it being an average height of four feet , but it is actually four feet in one area and three feet in another, etc.

O'Connor, - But, if it goes to five feet in one location, and it is three feet in another location, then it is considered to be over four feet.

Staudt – Will it be enough to leave it at four feet in height or should we get into averaging issues?

O'Connor – That has not really been an issue.

Stephens – We have also had the issue of a fence installed on a property that slopes. The fence itself is 6 ft. but at the highest point it could seem higher even though it is on grade.

Macdonald – What if it is a plastic fence from Home Depot? Would it be considered a wall by definition?

Schuyler – Then it would be considered a wall by definition.

O'Connor – The current code has the definition of a building and under the definition of a wall it would be locked into that code.

Staudt – First we need to get the substance of what you need and then we may be able to add footnotes, to certain codes.

O'Connor – For instance; you could have a 6 ft. fence on a side or rear property line. Could someone put up a stone wall? A fence is less massive and fences can be moved easier. It also is required to be a certain percent sold.

Staudt – Do you want to make a retaining wall subject to a certain sort of setback?

O'Connor – 6 ½ feet is a structure according to code and needs to meet all the Zoning Requirements for accessory structures.

Carlson – But, if it is only 4 ft. high they still need a building permit, but it is not considered a structure?

O'Connor – Correct.

Macdonald – Suggested two separate codes for walls and fences.

O'Connor – The Fill and Excavation Code is also being revised. At some point it will require a permit and may need to go before the Planning Board. But, they would need to come in for approval of it, If the Zoning Code under the Fill and Excavation Laws says they can do it, it will be done according to whatever is under the Fill and Excavation Laws. But, maybe after addressing all those issues he may still be able to build a retaining wall right on the property line. That is an issue that needs to be addressed.

Brumleve – If I lived down the hill and a neighbor or someone built a six foot retaining wall on our mutual property line, I would be very upset.

Staudt – The same with a gentle slope, then you are looking at a six foot wall.

Brumleve – In that regard I would consider the code relative to buildings with respect to zones. It might be possible for us to look at the existing codes and put footnotes in certain sections of the code as to where they would be allowed or not allowed on proper lines in certain circumstances.

O'Connor – Accessory structures are required to be five feet from the property line and the primary structure is required to have more. Also, Accessory structures cannot be closer to the street than the primary structure. Some houses are different typographically; then a variance is required.

Gallelli – If it was a new house it would be the Planning Board.

Staudt – More commonly you see they flatten it out and then put the retaining wall up.

Brumleve – Some basic measurements will help to determine if it is a retaining wall or an accessory structure. Once it is four feet than it is an accessory structure.

O'Connor – Or you could say walls over four feet are considered to be a retaining wall. But, retaining walls are usually retaining dirt.

Staudt – Or Just for retaining walls you could say any retaining wall holding more than four feet of earth will require a building permit. Walls over four feet comply as an accessory structure

O'Connor – For walls over four feet, can we prohibit the use of wood such as railroad ties? I would like to but I do not know if we can.

Staudt – Yes, if you were able to make a case that it would not be safe over a period of time.

Macdonald – Or we can require maintenance so it will not be a problem.

O'Connor – But, then we have cases where some homeowners purchase a house and suddenly it is an issue and money is not there to fix it and the neighbors complain and then the wood would just rot. Masonry walls have a much longer life span and the type of deterioration that you would have with a wood wall is not going to be there.

Carlson – How do you condemn a structure?

O'Connor – We would issue a violation.

Carlson – So, maybe that is a separate issue.

Boyle – Have we ever condemned a structure?

O'Connor – More in the line of considering it an unsafe structure.

Brumleve – I think we have addressed the issue of retaining walls. What else do we need to address?

O'Connor – Whatever is established we will comply with. We also will need to look at the Fill and Excavation Code.

Brumleve – We will leave that to you.

Boyle – I support "walls over four feet".

Staudt – Is it only with retaining walls that you have an issue of being wood?

O'Connor – If it is a regular wall than it is not a building permit issue. We could request a wall over four feet and with a longer length would need to be masonry.

Gallelli – That could look horrible depending on the masonry materials that are used. I can see a "no wood issue becoming a nightmare. Aesthetically, it is unpleasing to see a lot of masonry walls.

O'Connor - If you allow wood and people have a budget and they build a wall, they will go for what is cheaper.

Brumleve – If they lobby for it not to be made of wood there still will be a structural review.

O'Connor – Maybe it could be handled under the fill and excavation law.

Brumleve – We will also need to move to other sections of the code that are related to different zoning requirements and see where retaining walls might apply to that.

O'Connor – Now, the standard is six feet high on or within the property line. No setback requirement except for corner lots.

Sperber – Taking a six foot high fence all the way to the property line then the person coming out of the driveway next door cannot see. We have talked about the possibility of having portion of the fence that is towards the front of the property to be less than six feet high.

Stephens - We also need to let them know it is measured from ground level.

Brumleve – Then you get into how you define average grade. Grade is averaging. We could say in no case should a fence be more than four feet high within a certain number of feet along a driveway area.

Sperber – In a RA-5 Zone a front yard setback is 15 feet. At that setback requirement you reduce what ever number of feet is agreed upon for the fence in that area.

Stephens – On a corner where there are weeds growing four or five feet high you are required to trim them down to thirty inches.

O'Connor – So that could apply to this.

Carlson – But, what if you had a fence you could see through?

O'Connor – It would depend if the fence is at an angle or if you can see through it. It would depend on certain aspects.

Boyle – We had a five foot cedar fence and we wanted to make it six feet high for safety reasons for our daughter, because she was a climber. All our neighbors said it was fine but the ZBA turned us down. So if, there are genuine sight problems, I do not know how setbacks would solve that issue.

Brumleve – Is the Code that applies to the 30 inch requirement clear?

O'Connor – That Code just refers to corner lots.

Brumleve – What if we broadened it to fences and walls adjacent to driveways?

Sperber – Then if that is the case, you will not be able to fence your kids in. It does not have to be as per the code reads. It can be five or seven feet back from the sidewalk. You can have a reduced height requirement in the area of a driveway so you can see children coming on their bikes, etc. Then if you have a house that has a setback of 15 ft. the kids would not be able to use the front yard if you are afraid of them getting out, etc. You will find this mostly in a RA-5 District. Maybe a seven foot setback from the edge of the sidewalk would be enough to put in the code.

O'Connor – We also have issues when neighbors put up a six foot fence on the property line, then we get calls saying it is not six feet it is six feet two inches because of the topography and/or the posts. If the ground slopes you will have different grades in some areas.

Sperber – Also, aesthetically, it is horrible when you have the top of the fence follow the topography.

Brumleve – What about saying "in no case should it average no more than a certain number of feet from grade?

Gallelli – We also have a culture clash. In the past we never had all these fences. Within the last few years we have had a lot of people closing off their properties. Once all those fences start going up in an otherwise open neighborhood that is when you start getting the complaints, it is a cultural thing.

Carlson – There are also so many reasons for wanting to put a fence up. Everything from keeping coyotes from eating your dog to keeping your children in.

Staudt – In essence the measurement will come off grade. We will deal with average height before we deal with grade and slopes. I have drafted an ordinance for the Town of Larchmont with respect to this. I will get the information for the Board. Do you want to add anything with respect fencing on corner lots and sight issues. I think it gets dealt with in a different way by keeping them very low.

Consultant – We can use a collection of different ordinances and pick out which ones apply to us.

The Board agreed and suggested to add something with respect to the "good side" of the fence facing the neighbor.

Brumleve – Also, suggested clarifying the wording with respect to fences that are built on top of a wall. That they are measured the same as a fence would be measured.

Sperber – A fence on top of the wall would be considered the same as a fence?

Discussion followed over measuring from grade level and the definition of grade level.

O'Connor – Suggested that if a fence were within so many feet of a lot line it will not apply. If it is closer to the lot line it will apply.

Stephens – What, if someone has an approved lot and a vacant lot right next to it and the property owner decides to build an addition that would require a variance. The property owner then uses measurements of the vacant lot along with the measurements of the improved lot to accommodate the addition. Otherwise, he would have needed a variance. Later the property owner decides he wants to sell the lots as two separate lots?

O'Connor – That is usually a case of a variance. If you were to take the second lot away, that house meets Zoning. If the house is five feet away from the property line and it needs to be eight feet from the property line then they would need to proceed with a variance.

Davis – So, presumably they will go back and subdivide.

Staudt – If they build on the vacant lot, those lots should be merged. If it is too close to the property line and then they say we want to sell the other lot, you need to tell them they can't; or depending on how the Ordinance reads, it can say a lot is merged when you crossed the property line. I will have to look at the merger clause. Even if the merger law does not say that, they still cannot build a house on the other lot until they get a variance.

Davis – If what the Engineer says is correct.

O'Connor – I do not think there is a merger clause. Then you would need a variance and that would free up the second lot for a separate sale.

Staudt – You will need to be in compliance with zoning for both lots or you would need to get a variance.

Gallelli – If you can't do it because the building will not have sufficient setbacks, then how is a two lot sub-division going to help you in that situation.

Staudt – If the lot is big enough to move the lot line.

Gallelli – But, doesn't that then become a lot line adjustment without a sub-division?

Brumleve – My understanding is that we presently do not have a code vehicle where you can do any lot line adjustments.

O'Connor – If there is enough room for a lot line change and it does not need a variance or if it is an older home and meets the "Existing Small Lot" Section of the Code.

Davis – What is a lot line adjustment?

O'Connor – If you move a lot line, and do not create any nonconformities that is a lot line alteration, not a sub-division. I will then ask them to outline it on a survey. Under these circumstances I usually determine that the alteration is not considered to be a sub-division.

Davis – Then when the lot line changes the deed changes?

Sexton – It usually happens in the Building Dept. You may find that out when you buy a lot because this is not always transparent at all to the new owners.

Staudt - There has to be a co-ordination between the Building Dept. and the Zoning Ordinance.

Stephens – There have been issues in the past when they want to sell off the other lot.

Sexton – you need to make it more

O'Connor – A lot of times that vacant lot might have a slightly different problem with it. You still need to go to the Zoning Board. It is a hard decision. Sometimes they are short by lot depth and width. If it is not a perfect rectangle, that is hard, but they have a vacant lot and they are asking for a ten percent variance before the Zoning Board.

Davis – It sounds like you are able to do what you want to do with an existing lot.

Davis – People are not able to create a sub-standard lot.

Davis – We have some procedural concerns about screening applications, as well as some concerns with respect to an applicants request for adjournments. Particularly, where there is an illegal use they are trying to fix it with a variance. What is our power to do with it right now and what can we do to change it to make it work better.

Staudt – There is no New York Laws governing this. So, you are subject to your own decision without being arbitrary or capricious. If they want an adjournment they need to give a reason. Then you are required to grant their request unless, there is some accountable, reason for denying it. If there is some enforcement issue, going on you can grant several adjournments, but you do not need to let them go on and on by carrying it on Agendas, noticing, that is the rule, 99 % of the time. The Board can adopt a rule for example stating that they will be taken off the agenda if they request more than a certain number of adjournments or they will be responsible for the cost of re-noticing, where they have to pay an extra fee, plus a fee for the legal notice. There are no laws stating the number of adjournments that are allowed. It is all based on reasonableness.

Stephens – Some cases they have requested an adjournment for years and they then have the benefit of the violation for years.

Staudt – Then you can deny it or end the adjournments and rule on the case. If you think you are facing litigation you can advise them that you preceded with the case and they are hereby welcome to review the transcript of the case and request they submit a reply to you by the next meeting date or you will be closing the case. If you want you can consult with me case by case and I will follow through with you.

Seth – We will be working together as you suggest.

Brumleve – With respect to Customary Home Occupations and Off Street Parking, as well as the intent and meaning of the words “adjoin”, “adjacent” and “contiguous”.

Stephens – Touching, sharing an edge to a boundary.

O’Connor – Where do these come into play?

Brumleve – That is my question. Why are these issues?

Stephens - This come into play with attached structures and walls.

Brumleve – Do you feel that by clarifying “attached” you will be able to deal with all of the above words?

Stephens – Yes.

The Board agreed.

Brumleve – (Referred to the Comprehensive Plan with respect to limitations and size with respect to Customary Home occupations).

Boyle – Are they expecting this of us now?

Brumleve - This would be a subject at one of our ordinary meetings.

Boyle – This is a lot like accessory apartments. Which in fifty years in this village, no one has touched it because nobody is arguing that it is broken. Do we have a problem here? If we do have isolated problems do we want to fix this in a way that would create a lot of havoc?

Carlson– We do not necessarily have to fix it now.

Boyle – Is the situation really a problem? Are people complaining or have there been instances?

Stephens – Some people complain about the number of people that go in and out and the number of cars, especially with a customary home occupation such as a dentist, or doctor.

O'Connor – The occupation is as of right. We have not really gotten involved with that much because they are allowed to do it according to Code.

Brumleve – I am not sure if a revision is necessary.

Mr. Brumleve – Reviewed the current Code with respect to Customary Home Occupations and stated that the Code does exclude such businesses as, Day care, etc. and stated that beyond that the Code seems sufficient.

Gallelli – Aren't there some sections that pertain to the kind of old time customary home occupations, such as beauty parlors and barber shops? Was that not kind of a limited type of thing?

Staudt – That might fall under professional office.

Discussion followed over Code.

Davis – It seems that there is a specific list of professions and some are left out.

Sexton – clearly some are left out.

Davis – That is what we need to look at.

Sexton- There is no list of what is preferred or allowed. Sometimes for certain low level Home Occupations, they have limitations with respect to residency and visitors, etc. Then you have people who are breaking the law but not intending to. Some Customary Home Occupations have outside employees who come in and in those cases you might need a permit or a hearing. You would have to go through a process. That is how Planners go about this. It has some level of impact.

Stephens – In a great many villages they also have economical issues. The more you let people have businesses out of their homes the more you cannot fill your commercial vacancies in town. That then becomes an economical issue.

Boyle – To me this is a category that is not broke.

Sexton– But, as it is, you probably have people breaking the law.

Brumleve – The notation of having no employees is all it needs.

Schuyler - What about off site assistance?

Brumleve – That could be allowed. This way we are not encouraging the increase of traffic, etc.

O'Connor – For supplementary parking it allows three spaces and two for any residential use (Referred to Section 239-51A)

Sperber - Then there is an issue of impervious surface that you can have in most situations.

O'Connor – There is nothing in the Code that does not say you cannot have a double driveway or a triple driveway. They measure and say OK you have five parking spaces. Another is that some people want a Customary Home Office. They have it in the garage on a second floor. But, you really cannot have a second floor.

Sperber – Sometimes the structure was built when zoning allowed for an on site caretaker and it was used for a caretaker.

O'Connor – That comes up kind of frequently.

Brumleve– To me the place you could limit that is with the issue of the surface. Now it is 30% of the living space, which is a large amount of footage.

Sperber – The accessory structure was legal when it was built and the Customary Home Occupation did not exceed the space in the primary structure.

Brumleve – If you take the average square footage and then take 30% of that, it is a large carpentry shop and a lot of consultants.

Brumleve – I would also like to touch on Residential off Street Parking requirements, Boats, SUV's, and commercial vehicles.

Mr. Brumleve submitted material to the Board Members with respect to Code, Etc.

Brumleve – (Referring to the materials he passed out) I do remember seeing where we had distances that were no more than a certain number of feet from the rear and side yards.

Boyle – The only questions I have is, if this is going to cause a lot of trouble with a lot of people in terms of what people are doing now.

Gallelli – I think in some ways it applies to Customary Home Occupations where people are operating from their home and they bring the backhoe home at night.

O'Connor – Referred the Board to Section 230-49 of the Village Code. Which states; one commercial vehicle with less than three-fourths ton capacity may be parked within a private garage or a lot in any residential district. Use of trailers, or boats, are prohibited in residential districts.

Sexton - Use means? I do not understand that definition. It is specific to boats and trailers.

O'Connor - It is referring to the use of a camper, such as sleeping and cooking.

Brumleve – So instead of the First word "Use" it should be changed to "occupancy".

Discussion followed over another portion of the same Code that refers to one boat being allowed to be parked on any occupied lot but not nearer than 8 ft. to the side or rear lot line and not farther than 20 feet from the rear lot line of such lot.

Brumleve – Have we had any issues with respect to people seeing this type of storage from the street?

Sperber – Yes. Especially in the RA-5 Zone, where you don't have much room or if it is near a side yard. We have received a few complaints. There is not much they can do, but move the boat.

Brumleve – We need to change the word "Use" to "Occupancy" and provide a definition of a trailer. I suggest that instead of saying one boat, that we state "one such vehicle". So, they are allowed to have one trailer, one boat, etc. We can make it one of these types of vehicles. I would also like to see something stating that such parked vehicles should be screened from view of a public right-of-way.

O'Connor – If someone has a RV it cannot be occupied as habitable.

Gallelli – That is not sufficient. You do not want it to become a second kitchen.

Stephens – Or state that no trailer should be hooked up to any power source.

Macdonald – But, some have their own power source.

The Boards agreed to review this item further.

Boyle – With respect to screening, I just do not know what type of camouflage?

Sperber – The Town of Cortlandt allows you to have portable outside storage.

O'Connor – We would have to say it is an accessory structure, because it is a shed. We can kind of threaten zoning violations.

Schuyler – How long does it have to be there before it is considered an accessory structure instead of a storage shed?

Macdonald – It is usually a shorter term, because you have to pay for it.

Staudt – It is more of an issue with commercial lots.

Gallelli – Should we not consider a time frame? We know that boats, etc., become permanent and not just seasonal.

O'Connor – A boat is used a couple of months.

Sexton - Do you have a prohibition of unregistered vehicles?

O'Connor – Yes, we do.

Gallelli – It may become a property maintenance issue. Then you can give a code violation. We can deal with it like that.

Doyle – Does a building include fall-out shelters?

Brumleve – The consultant's will do the verbiage and structural form. We will then review it as a committee for changes to the Ordinance after getting the consultant's and attorney's input.

Staudt – The Village Attorney suggested that with respect to the Zoning Board proposing a code with respect to "request for adjournments" that the Zoning Board contact him if there is a particular case they are concerned about and he will direct them.

Meeting Closed.

Respectfully submitted

Janice Fuentes
Zoning Board of Appeals Secretary
On behalf of the ZBA & Comprehensive Planning Committee
3/3/10