

DRAFT FILED: 06/15/07
FINAL APPROVAL: 7/11/07

VILLAGE OF CROTON-HUDSON ZONING BOARD OF APPEALS
MEETING MINUTES OF JUNE 13, 2007

MEMBERS PRESENT: Kathleen Riedy
Rhoda Stephens
Ruth Waitkins
Doug Olcott

MEMBERS ABESENT: Witt Barlow

Meeting came to order at 8:00 P.M.

Kathleen Riedy, Chairman of the Board announced the location of fire exits.

Riedy – Advised the applicants that there was one member absent from the meeting and each applicant would need a minimum of three votes in favor of their application in order to obtain the variance they are requesting. The Board gave each applicant the opportunity to request an adjournment until next month when there may be a full Board present.

Each applicant present requested the Board to proceed with the hearings.

HEARINGS ADJOURNED:

Thomas Fallacaro, 3 Arrowcrest Drive. Located in a RA-40 District and is designated on the Tax Maps of the Village as Section 67.15 Block 1 Lot 33. Request for a variance from Section 230-40(A)(1)(B) with respect to a retaining wall being built less than five feet from the side property line, and Section 230-40(b) with respect to a retaining wall being built in a front yard, and Section 230-40(A)(1)(a) with respect to a retaining wall being built higher than 15 ft. (Adjourned on 10/11/06) (11/07/06 Fax request to adjourn until (12/13/06), (12/6/07 requested to adj. until January 10, 2007), (1/3/07 request to adjourn until February 14, 2007). **(2/13/07 -Applicant requested to adjourn until further notice).**

Danny Oks, 138 Maple Street. Located in a RB District and designated on the Tax Maps of the Village as Section 79.05 Block 1 Lot 39. Request Renewal of a use permit granted according to ZBA Resolution dated 2/9/05. **(Applicant requested to adjourn until July 11, 2007).**

Adjournments granted.

HEARINGS:

Liber Rios – 29 Old Post Rd. So. – Located in a RB District and is designated on the Tax Maps of the Village as Section 79.05 Block 1 Lot 43. Request for a Side Yard and Total Side Yard Variance with respect to a proposed addition (Adj. on 5/9/07).

Rios – We have plans that show the existing and the proposed construction. At the last meeting you had requested that we revise the plans.

Galina Kamevesky, Architect for the applicant – At the last meeting the Board’s issue was with the wrap around deck and we have revised the original plans according to the Boards concerns. The plans show what is existing and what we are proposing.

Photos were submitted to the Board.

Photo “D” – depicts the existing condition from the rear yard and looking towards the street. The neighboring property is on the left and the deck is on the right. The square footage of the addition is about 750 Sq. Ft. The existing deck is approximately 5 ft. wide and the proposed deck will only be 3 ft. and will be extended. The dotted line shows what is existing and where we are proposing to put the line of the new deck that is shown on the plans. At the last meeting the Board felt the deck was intrusive. My clients have one boy and one girl and they share one bedroom and one bathroom.

Photo B – Shows where the proposed addition will be. It will be 750 sq. ft.

Photo C - Shows the entrance on the side where the kitchen is now.

Discussion followed over plans and photo.

Mr. Rios – The property has a little slope. We will not be going any higher. Drawing #3.2 shows the existing house and the extension that we are proposing. The rear has plenty of space. The side yard is long and narrow.

Discussion followed over plans.

There is plenty of privacy for all the neighbors. We are adding 750 sq. ft. The size of the bedroom is 12 ft. x 10 ft. and the kitchen and living area will be open space 25 ft. x 23 ft.

Stephens – How much side yard needed?

Palveski – They only need 8 ft. 5 in. for the side yard.

Sperber - They need 8.5 ft. for a total side yard variance.

Discussion followed over plans

Stephens - They are only asking for a total side yard? Originally they were asking for side yard and total side yard.

Sperber - They are amending the application for total side yard only.

Riedy – What plans do they have for the siding?

Rios – It will be the same or close to what is existing.

Stephens – What if we made it a condition that it be uniform with the existing house.

Rios – Yes the closest possible to the existing or we will re-do the total house.

Stephens - And no trees will come down?

Rios – I will definitely save the trees. There will be no removal.

Riedy – Anyone else like to be heard?

There was no replay.

Hearing closed.

Stephens – Made Motion to grant a total side yard variance of 8.5 ft. for a proposed addition according to revised plans dated 4/16/07 which eliminated the applicants need for a side yard variance that was originally requested. The Board further granted the variance with the following condition:

The siding will match throughout the house.

Waitkins – Second the Motion

Vote: 4-0 – In Favor – Stephens, Waitkins, Riedy, Olcott

Louis Guaman, 10 Church Street. Located in a RB District and designated on the Tax Maps of the Village as Section 68.17 Block 1 Lot 40. Request for a side yard setback according to Section 230-40 (A) (1) (b) with respect to an existing shed.

Guaman – Good evening. Last year I received a permit to build a shed 16 ft. x 12 ft... The required setback was five feet. I had a problem with the setbacks on the left side. I was confused and the shed is too close to the property line. My neighbor complained. I do not have space.

Stephens – What is in front of the shed? Can't you move it farther away from the lot line?

Guaman – (Referring to pictures the applicant submitted) this little shed (existing) I will get rid of and the one behind it.

Sperber – The existing shed will be removed.

Olcott – So you received a permit but you built it more than 11 inches off?

Sperber – Yes. It is more than 11 inches off. It is on a concrete slab.

Guaman – What happened is that I do not have space in the back side.

Olcott – So he could not move it?

Sperber– If he moves it he will be closer to the house and it will narrow the passageway between the shed and the house. The passageway is approximately two feet now.

Olcott – So there is only two feet now?

Riedy – Your original plans called for you to build it five feet from the property line. You did not need a variance. When you filed for the Building Permit Application you placed the shed in such a way on the survey that it would be five feet from the property and two feet from your house. When you built it what happened. You made a mistake?

Guaman – When I moved the shed there was only space big enough for me to walk.

Riedy – Who installed the foundation a contractor?

Guaman – Myself, I saw the corner of the previous shed that was there and I was confused with the dimensions. The inspector came and asked me to move it five feet from the property line. I explained that my walkway would be reduced if I did that.

Riedy – When you put the foundation in you followed the measurements on the plans and you were able to construct the shed according to all of the other measurements. So, the only measurement that confused you was the measurement from the side property line?

Guaman – My shed was supposed to be 16 ft. x 12 ft. feet. I reduced it to 11 ft. x 10 ft.

Sperber – He reduced the measurements from what was originally approved for the Building Permit.

Stephens – Wasn't he supposed to take the other shed down first?

Sperber – I am not sure what was supposed to be first. The other shed in the front that is not an issue before this Board.

Guaman - Photo-A – shows the wall of my house. I did not realize it needed to be five feet from the property line.

Riedy – What was the original dimensions of the shed for the original plans.

Riedy – Originally you got a permit for a 12 ft. x 16 ft. shed and it was going to be where?

Discussion followed over plans.

Riedy – What was the distance between the shed and the house?

Guaman – Two feet.

Riedy – Is that a violation of Fire Codes?

Sperber – It was originally shown a little farther back from the property. He moved the slab closer to the property line. I think it was brought to our attention by a complaint. He then tried to place it closer to the house so he could meet the setback but it created a very narrow walkway between the house and the shed.

Stephens – Did Peter Anfiteatro the Fire Inspector feel this would be detrimental if there was ever a fire?

Sperber – Yes it presents a lot of issues but we are here for zoning Issues.

Stephens – Yes, I know but it is still an issue.

Guaman - Photo – D – Is the front and shows the shed. I need space for my tools and equipment.

Riedy – Will it have electricity? Did the plan call for electricity.

Sperber – No. Not according to the permit application.

Stephens – Whose fence is that?

Guaman - My neighbor's

Stephens – How close is the roof to the fence?

Guaman – I don't know. Maybe four feet?

Riedy – This is a request for an 11 in. side yard variance.

Stephens – Are you physically able to move the shed back or is it too late?

Guaman – It is too late. It is heavy. That is why I came before the ZBA.

Sperber – It would be a lot of work. It is not impossible, but it would be a lot of work to extend the slab and move it over.

Stephens – Does this go into his parking area?

Sperber – I think the house only fronts Church Street and may have access from Harrison Street also. Our only requirement is that they provide off street parking as required. It does not matter which direction they go from.

Waitkins – Is this fence yours?

Guaman - No my neighbor's.

Riedy – Anyone else like to be heard?

Ed & Angela McMahon – 14 Church Street

Ed McMahon – We are the neighbors next door and have the fence. There have been a lot of things we have heard and we brought pictures for you to see. (Referring to pictures)- This is a commercial vehicle that is always parked there. From our side of the property there is a wood shed with a parking space.

Photo E – Shows why the original shed was not able to be moved. This shed is still there and has not been taken down. I spoke to Peter Anfiteatro in early April and the framing had just started on the building. The overhang was over our fence.

Photo - F – Shows the original new shed before he moved it. It was out of compliance with Village Codes so it was moved.

Mrs. McMahon – We have spoken to Mr. Guaman. We want good relations with our neighbors. In the spot where the new shed is there was a Sears shed that was right up against our fence and we could not even get a hammer in there to fix the fence. That shed remained and was there for a couple of years.

Mr. McMahon – It was an old metal sears shed that has since been removed.

Mrs. McMahon – We told him that we agreed to his original plans for the construction of the shed. But, all of a sudden the original shed was moved to the other side and construction began and when the framing went up we noticed it was too close.

Mr. McMahon - This photo shows our view. It shows the sheds behind and in front of the existing shed.

Olcott – If he gets rid of the other two sheds would you object to the new one?

Mr. McMahon - It becomes a question of what the intent was. Obviously he is a contractor so I am not so sure that we have a problem with him understanding dimensions or whatever. I assume a Certificate of Occupancy has not been granted. Not only does he have things in it already, but he completed the stonework in the back. He has already taken for granted that this is going to be a done deal.

Mrs. McMahon – Our original questions were if you have a permit how are you allowed to build on the property line like that.

Riedy – The original Permit would have provided that it could not be any closer to the property line than five feet. That is what is required by Code.

Sperber – That is what the Building Permit was approved for.

Mrs. McMahon – That is our argument. If it was put where it originally was proposed that would be Ok. He has a yard that is big enough to allow it.

Picture I - You can see it is a driveway that pulls straight and the dimensions of that garage or shed I would think it would be required to meet the setbacks also. This is a residential area. What is going in the shed? Will it be noisy construction equipment? I know that is not your jurisdiction. After we made the complaint it was not only framed but it had a wall and it was nicely sided and it now has a beautiful roof. It is almost too much.

Riedy – You raised a complaint with Peter Anfiteatro and after the complaint the shed was sided?

Mrs. McMahon – Basically, it was only framed, but construction continued. The roofing and the siding and etc. all occurred afterwards.

Mr. McMahon– He poured the slab and the dimensions were thought out. This was not pre-existing.

Mrs. McMahon – Because the shed is moveable I understand it was moved back one day. Who is to say it will not be slid right back where it is if it is a moveable shed?

Riedy – There are various police powers that are held by various officials, so theoretically if the shed was moved from a place and it was in violation of Zoning Regulations, that would be subject to the issuance of a violation notice and there would be a hearing before a village judge. We hope that would not happen. Instead we often have to rely on our own forthrightness.

Olcott – If we were to grant the variance and make a stipulation that he take down the other two sheds, can you live with it four feet from the property line instead of the required five feet?

Mr. McMahon – I would like to see it moved back. I truly think the intent was to disregard the Code.

Mrs. McMahon – The roof is hanging over our fence.

Riedy– But that is not calculated we are looking at the base of the building.

Mr. McMahon – We need assistance with this. I have a hard time understanding that “Well he built it so we will have to accept it.” I think that sends a bad message. I have lived here my whole life and this is the first time I have ever attended a ZBA Hearing. I do not go around policing my neighbors. I think this is enough and I think we need assistance with someone that has no regard for regulations.

Mrs. McMahon – I can’t even put hammer back there to fix my fence and then another shed went up and then the kitchen extension. So that is where we are.

Riedy – Mr. Guaman do you have anything else to say?

Mr. Guaman – When I purchased the house there was a shed. The wood shed on the side by Harrison Street that was there. I now want to take all the sheds out and put the new one in. I know I made a big mistake.

Riedy - When did Peter Anfiteatro, Dan O’Connor, or Joseph Sperber, tell you it was too close to the property line?

Sperber – The application was paid for on May 16th.

Stephens – So construction started prior to that?

Sperber – Yes. Well, prior to that.

Riedy – (To Mr. Guaman) when did you find out you had to file for a Building Permit?

Guaman – Sometime in May. The first two weeks of May.

Waitkins – On his ZBA Application it states that on 1/10/07 the application was withdrawn.

Olcott – That was a different application for the portico.

Stephens – That information was put on the application because it asks if there had ever been any other appeals made.

Riedy –When did you build the stone patio?

Guaman – Two weeks ago in the beginning of June.

Riedy - When did you put on the siding?

Guaman - Three weeks ago.

Riedy - The roof?

Guaman -Three weeks ago. When I meet with Peter he looked at everything and he said everything was fine. I just needed to wait for permission.

Riedy – He never told you it was too close to the property line in April?

Guaman - Yes and the next week I moved it.

Riedy – And it was still too close to the property line.

Guaman – There is not five feet. My neighbors are nice. As soon as the new shed is finished I will remove the others and I will have only one shed. I will only keep my tools in it. It will not be for commercial use.

Riedy – Are you a contractor?

Guaman – I will soon have my license.

Mr. McMahon – My wife and I have been talking. We are willing to consider accepting his application under the condition that the shed is moved from our fence and the shed will not be moved back to where it is now in the future. We need to make a statement and say this needs to be enforced and hopefully we will not be back here again.

Mrs. McMahon – In the drawings it should state where it belongs and it cannot come any closer.

Stephens – The dimensions given will be specific. The variance if granted will be for 11 inches.

Mrs. McMahon – Can you explain that to me?

Olcott – The shed is 11 inches from what is required from the Code.

Hearing closed.

Stephens – Made Motion to grant a side yard variance of 11 inches.

Olcott – Second the Motion

Vote: 3-1 **Against** – Stephens, Riedy, Waitkins – **APPLICATION DENIED**
In Favor – Olcott

Approval of Minutes:

5/9/07 - Stephens – Made Motion to accept the Minutes as corrected
Olcott – Second the Motion
Vote: 4-0 In Favor – Stephens, Olcott, Riedy, Waitkins

Respectfully submitted,

Janice Fuentes
ZBA Secretary
6/13/07

RESOLUTION

Liber Rios, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a total side yard variance with respect to a proposed addition.

The property, at 29 Old Post Rd. So., is located in a RB, District and is designated on the Tax Maps of the Village as Section 79.05 Block 1 Lot 43.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

There will be no undesirable change to the character of the neighborhood or detriment to nearby properties.

There were no objections from the neighbors.

The proposed variance will not have an adverse affect on the physical or environmental conditions of the neighborhood or district.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **Granted** as follows:

Stephens – Made Motion to Amend the application to grant a total side yard variance of 8.5 ft. for a proposed addition according to revised plans dated 4/16/07, which eliminated the applicant’s original request which included a side yard variance. The Board further granted the variance with the following condition:

The siding will match throughout the house.

Waitkins – Second the Motion

Vote: 4-0 – In Favor – Stephens, Waitkins, Riedy, Olcott

6/13/07

RESOLUTION

Louis Guaman, has applied to the **Zoning Board of Appeals** of the Village of Croton-on-Hudson, for a side yard variance with respect to an existing shed.

The property, at 10 Church Street, is located in a RB, District and is designated on the Tax Maps of the Village as Section 68.17 Block 1 Lot 40.

A public hearing having been held after due notice, this Board from the application and after viewing the premises and neighborhood concerned, finds:

The hardship is self-created. The applicant continued to construct the shed after being notified that the shed did not meet the Code and a variance was needed.

The requested area variance could be achieved by some other method. It was suggested the applicant move the shed in order to meet the required setbacks.

NOW, THEREFORE, BE IT RESOLVED, that the application is hereby **DENIED** as follows:

Stephens – Made Motion to grant a side yard variance of 11 inches.

Olcott – Second the Motion

Vote: 3-1 Against – Stephens, Riedy, Waitkins

In Favor – Olcott

APPLICATION DENIED

6/13/07