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**VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS**  
**MEETING MINUTES OF January 14, 2009**

MEMBERS PRESENT: Kathleen Riedy, Chair  
Rhoda Stephens  
Doug Olcott  
Alan Macdonald  
Roseann Schuyler

ALSO PRESENT: Joseph Sperber, Asst. Bldg. Inspector

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

Chair Kathleen Riedy indicated the fire exits. She explained the procedure for tonight's public hearing; the Board will hear from applicants and anyone who wishes to be heard; applicants can respond; the Board will ask questions and can adjourn the hearing if there are questions; they have 62 days to render a decision.

**HEARINGS:**

**Vladimir & Lyudmila Iokhvidov**, Riverview Trail, Located in a RA-25 District and is designated on the Tax Maps of the Village as Section 68.17 Block 1 Lot 13. Request for a lot area and lot depth variance with respect to a proposed new one-family dwelling.

John Power, 24 Van Wyck St., architect for the applicants, reviewed the proposed construction of a single family home on Riverview Trail; the property has 2 inherent problems; 20,144 sq ft where 25,000 is required for RA25 district and also a depth of 150 ft. is required where one side of the lot is 119.29 ft. He added that all other issues with the design of the home fall within zoning requirements. Mr. Power stated that the property was purchased in the autumn of 2007; it is his understanding that the previous property owner communicated to his clients that the property was a buildable lot. Kathleen Riedy asked if there was a real estate broker involved. Mr. Power replied that Prudential was the broker and the seller was Mr. Franco. Ms. Riedy inquired if the applicants were represented by attorney. Mr. Iokhvidov replied that their attorney was Vaysam Kaehan, 162 Ave U, Brooklyn, NY 11233 and they paid \$65,000 for the lot. Chairperson Riedy asked Mr. Power to please speak to the 5 ZBA factors. His response was as follows:

1. The ability of the residence to fit in with the surrounding area. Mr. Power stated that the area doesn't seem to follow any one style or consistent scale.

2. Kathleen Riedy added that they also must consider if the variance is substantial. Mr. Power replied that the density of the area, with a home on that property, follows the same density of other lots; there are no homes immediately adjacent; locating the house as proposed orients the house equal-distant between 3 other residences; it is no more dense than other surrounding properties. He continued that regarding depth, the site is unusually shaped; it is 119 ft. on one side, but 170 ft. on the other side; this is nothing that the clients created themselves.
3. Mr. Power added that there is nothing to be done to the site to avoid these variances; the lot can't be made larger or deeper; to build a residence, the lot area requires a variance; lot width is average from front to back, but depth requirement is not an average.
4. Proposed variance impact on physical or environment of the neighborhood– one proposal is to not install a septic system, but to trench down Riverview Trail to the existing sewer; there is the potential that down the line, other residents can also hook up.
5. The size of the residence is modest; using the FAR, if the depth was larger, an over 4000 sq. ft. home could be built there. Mr. Power emphasized that his clients want to build this for themselves; they are proposing a concrete block or insulated concrete form residence; they want a strong building, energy efficient, that will last a number of years; they mean to stay here in Croton and may want to open a business in town. Mr. Power added that the total sq. ft. of the proposed house is 2800, a 3 bedroom, 2 ½ bath home. which is on par with the average good size home these days; it will have a stucco exterior finish with terra cotta style roof; it is considered a two story; the southern exposure is purely for storage- automobile, laundry and mechanical space; the lower floor will be concealed on the other exposures; garages are not heated; because of the lay of the land, it may appear to be a tall ranch, the south side appears to be a three story; it would be much less than 35 sq. ft. of the ridge point.

Kathleen Riedy stated that the Board received a letter from Gerhard Isele, 66 Mt. Airy Rd. today and she gave a copy to Mr. Power.

**PUBLIC:**

David Steinmetz, attorney representing Marvin & Susan Lifshitz, 4 Park Trail, spoke in opposition to the application. He stated that his clients have resided there for about 20 years; they oppose granting the variances on the basis that they do not satisfy the 5 factors and questioned if the lot was properly created under Village code. He added that the area variance requested is a 19% variance and the depth variance is a 20% variance; the proposal is a detriment to the neighborhood; the Lifshitz's purchased their lot because of location and views; zoning ordinance §230-2 addresses an undesirable change in the neighborhood, protecting esthetic character and values; this application is not like Mr. Power described; this is a sub-standard lot; Mr. Steinmetz stated that he has a copy of the 1946 subdivision plat; building on this lot would have an adverse impact; this lot is not symptomatic of other lots in the area; page 15 of the Village's Comprehensive Plan protects expansive views and page 74 indicates the importance of open space. Mr. Steinmetz questioned what due diligence the applicants performed when purchasing this property. He added that the actual attorney on the deed is Helen Vrasman. Mr. Steinmetz opined that \$65,000 for a building lot is deficient and it may be a created hardship. He stated that the variance request is substantial in light of the application; the sub-standard lot may

be a self created hardship and questioned the legality of the lot; the applicants' deed is dated 2007 from Thomas Frankel to the applicants; schedule A is the meets & bounds description, but it doesn't reference a subdivision plat. He added that he did not do a full title examination; he went back a deed where Lillian Frankel in 1986 deeded the property to Thomas Frankel; this deed has exact same meets & bounds description. Mr. Steinmetz stated that he found what he believes is a deed to a neighboring property which Lillian Frankel deeded to another party. He also stated that he found a subdivision plat map 6087 filed in 1946; the County Clerk's office found a sub-division map with reference to lots 61a, 62 and 61; the applicant gave a locator map and he compared this with lot 62 on the subdivision map and it is not the identical shape; he looked at the meets & bounds and found there was lot line shifting; it appears somebody conveyed less than lot 62 to the applicants; the Zoning Ordinance states no changes should be made without approval of the Planning Board, but he can't find this. Mr. Steinmetz quoted from Zoning Regulations §230-8 which indicates they could not create a sub-standard lot. Mr. Steinmetz stated that if the lot is to be entertained, the applicants should come forward with a comprehensive visual cross section analysis and establish the impact and a computer generated rendering for a full impact analysis. Mr. Steinmetz asked to add the subdivision plat as part of the record; he has only one set of deeds, but will provide copies if requested. Mr. Steinmetz asked if there is any steep slopes impact and if so, would a steep slopes permit be required. Village Building Inspector Sperber replied that he does not know at this time.

Leslie Fabian, 6 Park Trail, read a statement she had prepared; she is an adjacent property owner and is concerned about her septic field and damage to the ground. Ms. Fabian stated that the construction poses a danger to her home, her property and the surrounding environment; blasting will cause upheaval; installation of a sewer line may require closing of Riverview Trail; clearing & building jeopardizes the neighborhood; a house of this magnitude with an oversized parking lot will consume the entire property, loom over small homes and decrease the value of her home. She believes that the removal of her view will decrease the market value also; she was told this lot was not a buildable lot; her home is her sole investment; she is appalled at the plan for the building, it is not in character with the "Trails" area; the dwelling would be out of context in the neighborhood; she is concerned that the applicants were not adequately told of the nature of this property. She asked the Board to please consider the code and integrity of the neighborhood; she has been there for 11 ½ years and rented previously. Ms. Riedy asked Ms. Fabian to identify her home on the application views.

Kathleen Sutherland, 15 Riverview Trail stated that she put together a petition of her concerns. Ms. Sutherland submitted the signed petition (exhibit C) and read her letter. She read that she objects to the size of the dwelling and patio which are out of character of the neighborhood. Present homeowners additions or changes have not been obtrusive; their property values would be threatened, based on views and privacy of placement of current residences; there will be a threat to physical property from water damage; the steep slopes behind her home has been a constant battle; her house is close to the property line where it is most steep. Ms. Sutherland recounted that when Verizon drilled for a telephone pole, it caused damage and she sued Verizon; a lot of excavation will be necessary for this application; she is not opposed to development in character of the immediate area; this plan would be a glaring object. Ms. Sutherland identified her property on the first page of the application views.

Thomas Newman, 6A Park Trail, stated that he echoes all of the strong comments raised this evening; he has lived in his current house about 2 ½ years and takes exception to the premise that the plans are conforming to anything that is in the Trails; the public will see the 3 story property; there are no other Mediterranean houses up there or little stucco; putting this home there will be a perception of sudden density, this will feel cramped in relation to neighboring properties. He added that his property is not directly abutting the applicant's property.

Scott Horecky, 15 Riverview Trail questioned how they derived the lot width on page A2a, normally the front width & back are calculated to make an average which would be below 125 sq. ft. which would require a 3<sup>rd</sup> variance. Mr. Horecky also stated that he calculated the site distance requirements for driveways and this does not meet the requirements to make a left turn from the driveway; he submitted his drawing and calculations.

Jim Tuman, 7 Mount Airy Road, stated that his property abuts the applicants' property; he has lived there for 19 years; this plan destroys the context of the neighborhood; he believes that the gross sq footage of the house is not 2800 sq. ft. but is a minimum of 3200 sq. ft. plus parking; 2800 sq. ft. would be substantially larger than any other home in the neighborhood; this does not fit into the neighborhood; coming up Riverview, houses are built into the side of the hill to conform to the landscape; this juts out; in the area by the Sutherlands, the building is almost 50 ft. high and it will destroy the Lifschitz' view and privacy.

Susan Lifschitz, 4 Park Trail, her house is located on the north side of the proposed house. She stated that she is an artist; she moved into her house because of the incredible view. Ms. Lifschitz presented for viewing a photograph from her home; she was asked to scan the photo, send the copy to the Board and it will be marked as Exhibit G. She stated that this is an esthetic issue; she expected to have a studio in her home when she retires in near future; she feels that this will cause a depreciation of her retirement years and experience of living in Croton.

Mr. Power's response to comments included the clarification about the definition of the width of a property which is not the average as stated, but a perpendicular line drawn at front and a perpendicular line drawn at back; it is the average of these. Village Inspector Sperber further explained this definition. Mr. Power added that there are misconceptions about the project and the septic systems; he took on this project the end of 2007; he has been an architect since 1987 and understands unregulated and uncontrolled development; this house has been reduced in scale from the initial schematics and may need to be reduced further; an engineer will be hired; one part of project is to maintain as many of the existing trees as possible; they will not have in the future a swimming pool or acres of lawn; the house will appear as a ranch; from Riverview Trail the home is very narrow. He stated that he will take this information under consideration; this is the first submission for this project. Chairperson Riedy asked Mr. Power if he had any additional response to comments made this evening. Ms. Riedy stated that Mr. Steinmetz raised questions regarding the 1940's subdivision map, this lot was not represented; lot lines as they exist today do not reflect lot lines shown on the subdivision map; if the Village Planning Board approved a change in the subdivision, that is one analysis; if there is no Planning Board approval of a change, that is another analysis for this Board. She asked if his clients want to review the records of the Village and report back or close the hearing tonight and the Board can vote on

application tonight or in 62 days. Mr. Power replied that he is not experienced enough to know what next the step would be and if a judgment tonight would put an end to the application.

Mr. Iokhvidov presented a tax bill from Cortlandt with respect to this lot showing the acreage. Mr. Sperber stated that he believes the discrepancy is that the tax map shows 2 figures – calculated size and deeded size, he believes .5 acreage is correct.

Mr. Power conferred with his clients and stated that his clients agree to adjourn the hearing to next month to give him time to gather more material.

**Board comments:**

Alan Macdonald questioned the size of the water main that is in that area; commenting that it may be small or may not be big enough to feed to another house.

Roseann Schuyler stated that there are issues that need to be addressed, specifically the retaining wall and the site distance. Mr. Power replied that he is not aware of site distance bearing on site plan approval; there have been cross sections done, but they are not a part of this presentation; a complete neighborhood cross section could be done.

Kathleen Riedy responded that the Board would be happy to address any further materials

Rhoda Stephens stated that Steep Slopes should also be addressed. Mr. Power replied that this is the initial presentation; he wants to give his clients time to hire their own professional to determine how the property got to where it is today

Kathleen Riedy stated that if an amendment to the subdivision map is found, please bring a copy of the Planning Board resolution and minutes to the next meeting on Feb 11<sup>th</sup> at 8 pm.

Mr. Iokhvidov asked the Board & neighbors if the size of house is reduced, would it be possible to build or will it also be rejected. Ms. Riedy replied that Mr. Iokhvidov can consult with neighbors, but this meeting is not the time to do that; he can modify the application and work with Mr. Power and any other professional and come back to the Board.

Mr. Steinmetz gave the applicants his business card and stated that he is willing to share any of his information and asked they give him any further information they may gather.

This matter was adjourned to next meeting which is scheduled for Feb 11, 2009 at 8 PM.

Mr. Newman asked if it is guaranteed this will be on agenda and will they know what documents will be submitted. Ms. Riedy suggested that he call the Village Engineer's office the day of the meeting. She also required that the applicant drop off 12 copies of the revisions to the Engineer's Office if making changes, so residents can pick up a copy for review.

THE HEARING WAS ADJOURNED at 10 pm:

**APPROVAL OF MINUTES**

Rhoda Stephens noted that the Board met on December 10<sup>th</sup> and approved the minutes of Nov. 12, 2008.

Additional discussion not related to the Iokhvidov application:

Rhoda Stephens inquired about a memo sent in May 2008 to the Village Board about fences. The Village Board has not done anything about that; they still need definition. She stated that she is also concerned about failure to adjourn the Falacaro matter; it has been open since 2006.

Chair Riedy responded that a proposal should be sent to the Village Board about this application: adjournments of hearings before ZBA will be granted for only good cause shown upon written notice up to 90 days.

Chair Riedy added that in respect to fences; she proposed that a letter go to the Village Board from the ZBA requesting the opportunity to meet at their next work session concerning the topic of fences and regarding the May 2008 letter.

Notes aside: the Board also talked about the Harmon Redevelopment Project and will ask that a few copies of the 2002 Comprehensive Plan be made available for the ZBA members.

Chair Riedy closed the meeting at 10:30 pm.

Respectfully submitted,

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Phyllis A. Bradbury, Acting ZBA Secretary