

Village of Croton on Hudson
Draft Minutes of Zoning Board of Appeals
Wednesday, May 11, 2022

Present: Christine Wagner, Chairperson
Doug Olcott
James Tuman
Daron Weber
Rocco Mastronardi (late)

Also Present: Ron Wegner, Assistant Engineer P.E
Len Simon, Village Board Liaison

1. **CALL TO ORDER:**

Chairperson Wagner called the Zoning Board of Appeals Meeting to order on May 11, 2022 at 8:06p.m.

2. **NEW BUSINESS:**

a) Sammon, Susan, Owner--2 Fox Road--Located in the RA-40 District and designated on the Tax Maps of the Village as Section 67.16 Block 2 Lot 14. Request for a front yard variance from Village Code Section 230-40(H)(1) for a proposed front yard fence that is more than 4 feet in height and more than 50% solid.

Chairperson Wagner invited the applicant forward and asked that they walk the Board through their application.

Present: Susan Sammon, Owner
Rick Sammon, Owner

Mr. & Mrs. Sammon began by introducing themselves and sharing that they have lived in the Village for 37 years. Ms. Sammon explained the location of their home, stating that their house is located on Fox Road at the top of Lounsbury Road and that because of the location and the elevation of the house, there is an issue with the headlights of cars at night shining straight into their home. Ms. Sammon explained that they had planted white pines to help create a screen and shield them from the headlights but over the years the trees have grown and the foliage of the pines no longer provide screening. Ms. Sammon stated that while it appears as their side yard, after discussions with Mr. Wegner, Assistant Village Engineer, now understands that the rules for a front yard apply. Ms. Sammon stated that they are requesting a variance to install a solid wood, 6'ft high fence in the front

yard fence to block the headlights from entering the home. The applicant explained that the fence would be elevated on one side because the fence will be installed on a steep slope and is seeking to install the minimum number of panels necessary.

The Board clarified that the request is for 10'ft in height because a 6'ft fence will be placed on top of a rock wall. The applicant stated that on one side the rock wall is approximately 1'ft in height but due to the slope, it is 4'ft in height on the other side. Mr. Sammon explained that the fence will be level with the fence that currently exists on the street side.

The Board asked what the relationship would be between the existing fence and the new fence. Mr. Sammon shared the existing fence would be perpendicular to the new fence panels. Ms. Sammon stated that the existing fence is their fence but has been present on their property since they moved in. Ms. Sammon expressed that they are looking to use good materials and install a high-quality fence. Ms. Sammon then elaborated on the alternate options they explored such as planting more white pines. However, plantings would not work because the present white pines are planted on the property line. The applicant explained that they were unable to plant more trees in front of the pines because they would be on village property. Ms. Sammon further explained that they tried planting a pine on the inside of the existing pines, but because it is such a shady area, the tree did not grow.

The applicant shared that they had neighbor support and submitted letters of support to the Zoning Board.

Chairperson Wagner opened the public hearing, and hearing no comments on the application, the public hearing was closed.

The Zoning Board of Review discussed and reviewed the five factors:

1. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by granting the variance.

The Board discussed and agreed there will be no undesirable change in the neighborhood.

2. The benefit sought by the applicant cannot reasonably be achieved by a method feasible for the applicant to pursue other than the location proposed.

The Board noted that 2 Fox Road has a unique topography with the way the road meets the house. It was discussed and agreed that the fence is the best option to block the lights from entering the house as the applicant has explored plantings as an alternate method but it was not a suitable solution.

3. The requested variance is substantial.

The board discussed and agreed that the requested variance is substantial. However, it was also stated that the fence itself is 6'ft tall constructed on top of a rock wall that brings a slope on the property to street level. Moreover, the street curves as it approaches the property such that car headlights are directed into the home.

4. *The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.*

It was agreed that there would be no negative effects on the environment and/or neighborhood.

5. *The difficulty alleged by the applicant was not self-created.*

The board agreed that the difficulty alleged by the applicant was not self-created in that the trees previously providing screening have grown, creating space for headlights to go through into the home.

MOTION: Mr. Tuman made a motion to grant a front yard fence variance of 6'ft in height, maximum of 24'ft in length and 100% solid. Chairperson Wagner seconded the motion, carried by a vote of 4-0 (Mr. Mastronardi, not present). Roll Call: Mr. Tuman, yes, Chairperson Wagner, yes, Mr. Olcott, yes, Mr. Weber, yes.

*Mr. Mastronardi arrived at the meeting as the 2 Fox Rd application was being concluded.

b) *Porteus, Greg, Owner—25A&B Harrison Street-- Located in the RB Two-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.17 Block 2 Lot 26.02. Request for side yard variances (2) and a lot width variance from Village Code Section 230-34 for the subdivision of a lot to build two single-family homes.*

Present: Alfred A Cappelli Jr., Architect
Greg Porteus, Owner

Mr. Cappelli, architect, introduced himself to the board and stated that he was representing the applicant, Greg Porteus. Mr. Cappelli began by referencing the narrative he had submitted to the Zoning Board with their application and materials. Mr. Cappelli stated that they submitted a narrative along with the site plan that helps to explain the reasoning why Mr. Porteus has requested to divide the lot to build two single-family units as opposed to building the duplex that had been previously approved. Mr. Cappelli touched on the history of the 3 lots on Harrison Street in that they were divided and approved to build two 2-family units. Mr. Cappelli stated that Mr. Porteus purchased the lot and originally designed a new duplex but after conversation and review, it was thought that the existing duplex on Harrison Street looks architecturally out of character for the neighborhood and that it was not desired by the applicant to replicate the duplex amongst a neighborhood of single-family homes. Mr. Cappelli shared with the Board that because they do not want to build another duplex in the neighborhood, they are at the meeting to present the possibility of taking the lot. Mr. Cappelli explained that the preference is to divide the lot in half to build 2- single family homes but with that comes the issues with side yard setbacks and the width of the lots. Mr. Cappelli stated that while they are aware they need 50'ft, they are only able to provide 37.5'ft. Mr. Cappelli added that they are also aware that a 12'ft and 8'ft (20'ft total) is required for the

side yard, they are only able to provide a total of 13.5'ft. Therefore, the applicant is asking for both side yard and lot width variances so that the lot can be divided to create 2 single family homes.

The Board clarified with the applicant that the proposal is to create two separate lots and asked if the applicant would need duplicate variances for each of the lots. Mr. Cappelli answered "yes," and further explained that the separate lots, not currently existing, creates a challenging situation because they need a consensus from the Zoning Board if the variances for the lots are even a possibility before going to the Planning Board for subdivision approval. Mr. Cappelli stated if the variances are not a possibility, then they know to end the process of the subdivision and Mr. Porteus will build the allowed duplex.

Chairperson Wagner then asked Ron Wegner, Assistant Village Engineer for clarification if whether or not the initial variances will be for the existing one lot. Mr. Wegner stated that the Board will be looking to grant the variances for the proposed subdivision that doesn't exist. Mr. Wegner stated that this is something they will need as part of the subdivision process. Mr. Wegner further explained the applicant is seeking to obtain the variances needed for the two separate lots so the applicant can move on to the next phase with the Planning Board. Mr. Wegner described the situation as being similar to how the original duplexes were approved. Mr. Wegner stated that the applicant at the time came to the Board in August of 2013 with a request for a side yard variance for the porticos. Then in October in 2013 the applicant had received approval from the Planning Board in using the variances granted by the ZBA for the subdivision and the site plan. Since then, one lot was developed and the site plan for the other lot (Mr. Porteus' s lot) has expired therefore Mr. Porteus will have to go back to the Planning Board for approval no matter what is ultimately built on the lot.

Mr. Cappelli was asked if Mr. Porteus was involved with the prior subdivision of the lots on Harrison Street. Mr. Cappelli responded by sharing that Mr. Porteus was not involved and is new to this lot. Mr. Cappelli shared with the Board that Mr. Porteus had developed a similar project on Wells Ave in which there was an existing one family home that took up 3 building lots. Mr. Porteus then built two new homes and reconstructed the center house involving a lot line realignment, reestablishing 3 individual lots with 3 houses that did not require variances.

Mr. Cappelli explained the houses on Wells Ave. are 28'ft wide however the new proposed homes for Harrison St. are designed to be 24'ft wide which is a typical width of inner village/city homes and works well. The Board examined the renderings provided with the duplex located on one side of the lot and Mr. Schulze's on the left side.

The Board asked the applicant if in addition to the applicant's discussion of the benefit to the character of the neighborhood with two separate houses, would there also be a financial advantage. The Board asked if the applicant could receive more money for the two separate homes as opposed to a duplex. Mr. Porteus answered "yes," confirming that they could potentially be sold for more money. The Board also asked if the proposed homes are similar in size to the duplex dwellings. Mr. Schulze, resident of Harrison Street, stated he believes it was 40'ft wide and needed a 15'ft setback which is why the owner needed variances. The Board thanked Mr. Schulze for his input.

Chairperson Wagner asked the Board if they had any other questions before opening the hearing to the public. With there being no further questions from the Board, Chairperson Wagner stated they would pause with the applicant, opening the hearing to the public for anyone who wanted to be heard.

Several residents came forward to share their concerns with the potential development of the lot.

Mr. Ken Schulze and Mrs. Kelly Schulze of 23 Harrison Avenue spoke first. Mr. Schulze stated that he received a legal notice 10 days prior to the meeting regarding the variance request. Mr. Schulze stated that he has lived at 23 Harrison for over 22 years. Mr. Schulze shared the history of his house and neighboring lot, explaining that Mr. Grasso was the owner of the large lot that was approximately 150'ftx140'ft with a house in the center of it. Mr. Schulze shared that Mr. Grasso never owned a car so the 150'ft span on the street was always available for parking. Mr. Schulze explained the lot next door was all gardens, he expressed feelings of being "spoiled" in having the large vacant lot and parking availability on the street. Mr. Schulze shared that when Mr. Grasso passed away, the lot became overgrown and changed owners. Mr. Schulze reported to the Board that recently, the village created parking restrictions and the neighborhood lost parking on one side of the street which has created a major issue for all the residents on Harrison Street. Mr. Schulze shared with the Board that the the parking is such an issue that when he received the notice of the potential of two new homes on the street he became very concerned.

Mr. Schulze stated that he reached out to Mr. Porteus who was very respectful. Mr. Schulze shared his concerns regarding privacy: his house is set back and they have a usable front yard where they enjoy sitting outside in the sun. He also stated that the morning sun in the winter helps to melt the ice on the front of their property and was concerned that the current placement of the homes would block the sun to his front yard. Mr. Schulze stated being okay with the development of two single-family homes but that he suggested to Mr. Porteus that the house(s) be moved back 15'ft which would also help to create more off- street parking.

Mr. Schulze expressed additional concerns about privacy specifically referring to the side door entrance of the proposed neighboring house as it is on the plan but again, he spoke to Mr. Porteus who agreed to move the side door to the other side (not on his side). Mr. Schulze felt that this would not just be beneficial to him but also for the new homeowners.

Mr. Schulze summarized by stating that he feels that moving the house back accomplishes both goals of creating more privacy and parking. Therefore, if the modifications are made and the house(s) are moved 15'ft back, he is in support of the project.

The Board asked Mr. Schulze what created the parking issue. Mr. Schulze replied that several months ago residents on Harrison were sent a notice that the village was eliminating parking on one side of the street but didn't understand why the decision had been made. Mr. Schulze said he wasn't sure if it was for firetrucks and/or garbage trucks but felt there had been no major changes to the street that would call for the elimination of parking on one side. Kelly Schulze of 22 Harrison Street added that the area is zoned as a 2-family district and there are a lot of cars that have to park on the street. Mrs. Schulze reiterated that they are in support of the houses if they can be moved back.

The Board thanked Mr. and Mrs. Schulze for sharing. Next to speak was Ms. Sam Adams of 30 Harrison Street and Ms. Deborah Hair of 22 Harrison Street.

Ms. Adams stated her name and shared that she lives diagonally across from the lot where the proposed houses would be built. Ms. Adams said that she shares similar concerns regarding parking. Ms. Adams had added concerns including the style of the houses as well as with noise from the worksite.

Ms. Hair shared with the Board the history of the neighborhood. Ms. Hair stated that Harrison is an old Croton street and that there used to be very few cars there and as kids they were able to play in the street but now the congestion is so bad that at times she cannot back out of her driveway. Ms. Hair stated that the parking situation is her biggest concern. Ms. Hair expressed the importance of pushing the houses back to allow for ample off-street parking for the residents of the new homes.

The Board then asked Ms. Adams and Ms. Hair if they do or do not like the single-family homes versus the duplex.

Ms. Hair responded by stating that she did not like the first duplex. Ms. Adams stated that she felt the new homes look like a duplex but just separated. Ms. Adams also shared that she felt the style of the new houses do not fit with the existing old homes in the neighborhood. Ms. Hair stated that she would however prefer the two separate homes over the duplex. Ms. Adams added that if the houses could be pushed back even further than 15'ft it would be helpful. The Board pointed out that the Zoning Board cannot dictate the style of the houses but validated how Ms. Hair and Ms. Adams felt about the style. The Board also validated their concerns about construction noise and it was communicated that there are ordinances regarding construction work hours in the Village. When the Board asked about the noise during the construction of the existing duplex, Ms. Hair stated that it was a consistent year of breaking rock. Chairperson Wagner stated that the Zoning Board's interest is in knowing what the public's preferences are in terms of duplex versus two single family homes because Mr. Porteus is within his right to construct a duplex without Zoning Board approval.

Ms. Hair and Ms. Adams concluded by stating that 2 single family homes are preferred if they can be pushed back and that they are asking for fair construction work hours.

Mr. Bruno Pesavento, spoke next. Mr. Pesavento introduced himself to the Board and stated he owns two properties in the Village, 21 Harrison Street and a property on Sunset Trail. Mr. Pesavento gave a brief background stating that he volunteered for 27 years with Croton Fire Department, he is a NYS Code Enforcement Officer and worked for the City of Rye as an Assistant Building Inspector as well as for the Village of Briarcliff. Mr. Pesavento shared that he is a commercial real estate investor and does not currently live in the Village. Mr. Pesavento stated that he feels his properties in the village will gain substantial value if the two single-family homes are built. Mr. Pesavento was clear in expressing his preference for the single-family homes over the duplex stating that he believes the single-family homes will generate more tax income for the village that will benefit the schools, the EMS, police and fire departments. Mr. Pesavento stated that he is in favor of finding a way to allow for the two single-family homes to be built as the houses will benefit his property values and help to maintain the residential character of the neighborhood. Mr. Pesavento agreed that the parking is a serious issue ever since the one side of the street parking was enacted and feels strongly that the Village should reinstate parking on both

sides of Harrison Street. Mr. Pesavento believes the parking restrictions were done because of the fire department but suggested that the Village can widen the street to allow for parking on both sides by reducing the width of one sidewalk while keeping the other side code compliant. Mr. Pesavento spoke to the concerns regarding construction noise stating that there are ordinances in place that will help to control the noise.

Mr. Pesavento then shared that he had the opportunity to speak to residents who were impacted by construction of the homes on 3 Wells Ave. Mr. Pesavento stated that from what he gathered, Mr. Porteus was very receptive to the needs and concerns of the residents who were impacted by those builds. Mr. Pesavento concluded by reiterating his support for the single-family homes and only asked a question about the setback requirements for the existing duplex on Harrison Street.

Mr. Wagner stated that the only variance required were for the side yard setbacks for the two porticos that stick out but that he did not have the specific number on hand.

The Board asked Mr. Pesavento in his opinion, given his background, if he felt that there would be accessibility concerns (from a fire department perspective), with the approximate 11'ft space between the two homes. Mr. Pesavento stated that he hasn't been with the Village department in a while but did not have concerns with access. Mr. Pesavento shared that with an aerial ladder the fire department would be able to access any window on the houses and that he did not have concerns with the spacing of the houses but noted that the fire department would most likely use ground ladders.

Chairperson Wagner thanked Mr. Pesavento for his input. Chairperson Wagner then asked if anyone else wanted to be heard on the application. With no one else being heard, Chairperson Wagner stated they would leave the public hearing open and invited the applicants back up to discuss the public's concerns.

Mr. Cappelli responded to the issues with parking and the streetscape by explaining that he was unaware of the parking restrictions on Harrison St. and looking at the homes on Harrison, it was noted that many of them are relatively close to the road so in an effort to maintain the streetscape, Mr. Cappelli wanted to align the proposed with those that already exist on the street. Mr. Cappelli added that they have no issues with moving the houses back or with flipping the design to create more privacy. Mr. Cappelli stated that with the input and approval from the planning board they are willing to make changes and accommodations. Mr. Porteus added that with his experience in building, if they run into rock, he is confident, with the proper methods he will be able to excavate the area quickly and efficiently, eliminating concerns of extended noise from drilling. The Board asked Mr. Porteus if the site will allow for him to build if the houses are pushed back. Mr. Porteus responded that while being more expensive for him to do, it can be done and is willing to because he wants the neighbors to be happy. Mr. Porteus stated that they stop work at 4:00pm on weekdays, do not work weekends, and will ensure that his trucks will not take up parking on Harrison Street.

Chairperson Wagner then asked the applicants, in thinking about moving the house back, if they could submit revised plans with the adjustments, exact measurements, and setbacks so that the Zoning Board can tie the variances to the specific plans.

Mr. Cappelli agreed to put together revised plans with the exact setbacks and footprints for the June meeting. Chairperson Wagner stated the Zoning Board will be tabling the application and the public hearing will remain open.

Chairperson Wagner then expressed the Board's gratitude for everyone being open to discussion and talking the application through.

It was noted that Mr. Simon, Planning Board Liaison, recorded the residents' concerns with parking on Harrison Street.

3. APPROVAL OF MINUTES

Chairperson Wagner made a motion to approve the April 13, 2022 minutes, seconded by Mr. Mastronardi, and carried by a vote of 3-0 (Mr. Olcott, absent, Mr. Weber, Absent). Roll Call: Chairperson Wagner, yes, Mr. Mastronardi, yes, Mr. Tuman, yes.

4. ADJOURNMENT

There being no further business to come before the Board, the meeting was duly adjourned at 9:15p.m.

Respectfully Submitted by
Stefanie DeMattia, Secretary to the Zoning Board of Appeals