

**VILLAGE OF CROTON ON HUDSON
MINUTES OF THE ZONING BOARD OF APPEALS MEETING
WEDNESDAY, SEPTEMBER 14, 2022**

PRESENT: Jim Tuman, acting Chairperson

Doug Olcott
Rocco Mastronardi
Daron Weber

ABSENT: Christine Wagner

ALSO PRESENT: Ronald Wegner, PE, Assistant Village Engineer
Alejandro Rosales, Trustee Liaison

1. CALL TO ORDER:

Acting Chairman Tuman, called the Zoning Board of Appeals meeting to order at 8:05 p.m.

2. NEW BUSINESS

a) Sena, Kenneth—15 Finney Farm Road—Located in a RA-40 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 67.19 Block 2 Lot 8. Request for a side yard variance from Section 230-33A for an existing primary structure (residence) and a height variance from Section 230-40(1)(a) for an accessory structure (pool house).

PRESENT: Ken Sena, Owner

Mr. Sena introduced himself to the Zoning Board of Appeals and began by explaining that he had purchased the house located at 15 Finney Farm two years ago and began renovations. The applicant stated the house was built in 1951 and described it as being fairly modern and small at a total of 1400 sqft. Mr. Sena stated that prior owners had extended the downstairs to increase living space but that the original intention of the house was to be a floating design. Mr. Sena shared that he wanted to preserve the original character of the house and that through research, he came to find that the previous owners also did an extension on the house on one side adding a stairwell to further expand the footprint of the house. Mr. Sena further explained that the stairwell connected the top story to the bottom story, that the expansion was done approximately 20 years ago of which a building permit application was filed but it was never approved by the Village. The applicant shared with the Board that during his renovations, he took down the work from the previous owners so that the house went back to its original footprint. Mr. Sena then referenced a picture in which he explained where the newer siding can be seen, there are lally-columns that support the house and that the previous owners enclosed that to create livable space and then “punctured through” the basement creating a hallway to walk through and then on the far

side added 2-story stairwell which was never approved with the Village. Mr. Ron Wegner, Assistant Village Engineer explained to the Board that the requested side yard variance is one of the two variances being requested and that the side yard setback variance would be for the legalization of putting the original porch back on the house.

The Board clarified that there was an original porch that had been taken down and then Mr. Sena rebuilt the porch. The Board asked if there was ever a variance for the original porch. Mr. Wegner stated that the previous owners had applied for a variance for the original porch but it had never been granted. Mr. Sena added that the previous owners around 1980 had taken off the porch and replaced it with the 2-story stairwell as described earlier.

Mr. Sena then introduced the second requested variance. The applicant explained that the original house was a 1400 sq ft house and that the previous owners had a big pool added in the mid 80's. Mr. Sena stated that he took out the original pool and wanted to replace it with something more consistent with the style of the house, creating a little more square footage, a small garage and a smaller pool that is approximately half the size (allowing for the additional sq. footage). The applicant explained that the new structure is about 700 Sq Ft with a 3 car garage underneath and that this new structure meets all setback requirements but exceeds height limitation. Therefore, Mr. Sena is also requesting a height variance of 2'ft for the pool house.

Acting Chairman Tuman then asked the Board if they had any further questions for the applicant. With no further questions from the Board, Mr. Tuman opened the public meeting.

Mr. John McKeon of 25 Prospect Place spoke from the audience.

Mr. McKeon asked for clarification on the exact distances of the side yard variances being requested; he also asked if with the slope of the property water mitigation has been included in the plan. Mr. McKeon then stated that he had trouble with stairs and that the elevator was not accessible in the building for the meeting and wanted to add that to his observation.

Mr. Wegner then returned to explain the specifics of the side yard variance stating that there is a minimum side yard requirement of 30'ft and showing with a visual, the rear corner of the existing house and location of the deck. Mr. Wegner stated that the applicant is looking to legalize an existing condition (the deck) and that the deck is 12.5' ft from line so the side yard variance would be approximately 17.5'ft. Mr. Wegner then addressed Mr. McKeon's inquiries about the mitigation for impervious coverage. Mr. Wegner explained that where Mr. Sena is placing the garage used to be the location of a pool and deck therefore Mr. Sena is essentially replacing an impervious area. Mr. Sena added for clarification that the deck is now where the 2-story stairwell addition was that the previous owners added without approval; that he removed that structure and put back the original deck restoring it to its 1951 state and is requesting a side yard variance for the original deck. Mr. Sena then addressed the impervious area explaining that that was a very large pool there which is now essentially the area of the garage and the garage is a 2-story structure that now requires a height variance.

The Acting Chairman asked Mr. Wegner if this would have to go to the Planning Board as well. Mr. Wegner stated that it does not require Planning Board approval and that the Village Engineering

Department would examine the drainage and look for mitigation if there is an increase in impervious coverage.

Acting Chairman Tuman asked Mr. McKeon, if what was explained, answered his question. Mr. McKeon responded by saying "sure." Mr. Sena added that he hired a Site Engineer who worked on the project. And that the slab is pinned to bedrock and they retrenched the area and installed proper french draining

Acting Chairman Tuman asked if there was any additional comment from the public and hearing no further comment, the public hearing was closed.

The Zoning Board of Appeals 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 the granting of the variance.

The Board discussed and agreed that the deck is not problematic as it is a condition that has existed since 1951 and was a part of the original design of the house. In reference to the height variance, the Board noted that the applicant is aware that he does not want the roof to obstruct his own view or his neighbors and the peak of the pool house would not change the character of the neighborhood. It was also noted that the neighbors are in support of the project.

2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance.

The Board discussed and agreed that the applicant was legalizing a pre-existing condition and the height variance allows for an office space to be achieved over the garage.

3. The requested variance is substantial.
4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The difficulty alleged by the applicant was self-created.

MOTION: Mr. Olcott made a motion to grant a side yard variance of 17.4'ft and height variance of 5'ft, seconded by Mr. Mastronardi. The motion was carried by a vote of 4-0. Roll Call: Mr. Tuman, yes, Mr. Mastronardi, yes, Mr. Olcott, yes and Mr. Weber, yes (Chairperson Wegner, Absent).

b) Braunstein, Eric—128 Cleveland Drive—Located in a RA-9 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.9 Block 3 Lot 31. Request for a front yard variance from Section 230-33A for a front porch.

PRESENT: Eric Braunstein, Owner
John Power. Architect

Eric Braunstein introduced himself to the Board as the owner of the property located at 128 Cleveland Drive. Mr. Braunstein explained that he is planning a renovation and addition to his home and that he is requesting a variance for a front porch. Mr. Braunstein stated the proposed covered porch will extend 8'ft beyond the minimum setback and that there is a current concrete stoop in the front so they will only be increasing the area by approximately 3'ft. Mr. Power, the architect for the project, introduced himself and explained that the house is a cape cod style home and as with many of his projects in Croton, the homes have been built right on the front yard setback. Mr. Power discussed the benefits and enjoyment of a front porch especially during the pandemic and that if keeping with the neighborhood everyone should have the privilege of a front porch. Mr. Power described the curves in Cleveland Drive and noted that the porch may be out in front of the property but because of the curves in the road, the porch will not be offensive. Mr. Power stated they are seeking to put an 8'ft covered porch and added that due to the large addition that will be done, the porch helps to break up and soften the size of the addition.

The Board then asked the applicant how many square feet the addition will be and how the addition compares to the current size of the home. Mr. Braunstein stated that the current footprint is 30'x30'ft and they will be adding 26'ft by 28'ft. Mr. Power added that the current house is approximately 911 sq ft and it will increase to 1,748 sq ft. and that the porch is not part of it. The Board verified that the addition is as of right and no variances would be required for the addition, the only variance needed is a front yard variance for the proposed covered porch. It was also clarified that the front steps to the porch do not count as part of the variance as the steps do not require a variance.

Acting Chairman Tuman asked the Board if they had questions for the applicant. As the Board did not have questions for the applicant, acting Chairman Tuman opened the meeting to the public.

Mr. Bill Goldsmith of 132 Cleveland Drive spoke in favor of the variance to allow for the front porch, stating that he lives next to Mr. Braunstein and that they reviewed the plans a couple of weeks ago and believes that the project and porch will be a great improvement to the neighborhood.

Hearing no further comment, the public hearing was closed.

The Zoning Board of Appeals 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 the granting of the variance.

The board discussed and agreed that the porch would be an improvement to the neighborhood especially in light of the large addition. It was agreed that the porch will create a better street presence and that the porch will help to break up the massiveness of the addition.

2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance.

The Board discussed that there is no other feasible way to move the porch in a way that doesn't require a variance because of the location of the existing garage.

3. The requested variance **is** substantial.

The Zoning Board noted that the original improvements were built to setback therefore any front porch would require a variance.

4. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The difficulty alleged by the applicant was self-created.

MOTION: Mr. Weber made a motion to grant an 8'ft front yard variance for a front porch seconded by Mr. Tuman. The motion was carried by a vote of 3-0. Roll Call: Mr. Weber, yes, Mr. Tuman, yes, Mr. Olcott, yes. Mr. Mastronardi abstained. (Chairperson Wegner, Absent).

c) Conte, Victor—68 Grand Street—Located in a RA-5 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.8 Block 6 Lot 64. Request for a total side yard variance from Section 230-33A for an addition.

PRESENT: Mr. Victor Conte, Owner

Mr. Lou DeMasi, Architect

Mr. DeMasi introduced himself to the Board and explained what Mr. Conte is looking to construct a proposed addition that will infill the back corner of the house to create a larger dining area. Mr. DeMasi stated that they have tried to stay within the existing side yard setback facing the east side and staying in line with the end of the house. Mr. DeMasi explained the addition will not extend past any part of the existing house, it is just infilling and they are therefore seeking a total side yard variance 2.74' ft. Mr. DeMasi stated the footprint of the house will only increase by about 150 sq ft by in-filling the corner and that they will be taking down a portion of an existing addition to rebuild with the infilling of the corner. The applicant then stated they will be adding a deck as well but that the deck is conforming and does not require a variance.

Mr. Wegner explained that the new roof dormer is only raising the roof up 3'ft to increase needed head room and that the dormer roofline will match the roofline in the rear of the house. The Board noted that they will be matching the front section of the room and that the roof addition will not be going any higher than what already exists. The Board asked if the existing addition was originally granted a variance. Mr. Wegner

explained that the only portion of the house that would have required a variance was for the front entrance but was already there and based on the age it was built under prior zoning code and would be compliant.

The Board discussed the addition of the deck and reiterated that because the new deck will be narrower than the house and meets the required side yard setback it therefore does not require a variance. Mr. DeMasi shared that there was of pulling the addition back by 2'ft but if the addition was reduced by 2'ft to meet Zoning it would make the room too narrow and that if the room was reduced to 8'ft in width it would not work as a dining room so the decision was made to leave it wider and request a variance. It was concluded that only the L shaped piece of the addition requires a variance because of the combined setbacks.

The Acting Chairman asked if the Board had any additional questions for the applicant. There being no further questions from the Board, Mr. Tuman opened the meeting to the public.

Mr. John Kneer residing at 66 Grand Street addressed the Board.

Mr. Kneer stated that Mr. Conte built the house next door to him from the ground up and that they had had conversations about the times in which the construction work would take place within the Village ordinances. He stated that every week Mr. Conte had different contractors working at all hours and days including working at night. John stated that when confronting the contractors about their work times, they told John that Mr. Conte said they could work at those times.

Mr. Wegner explained the enforcement procedure for work hours and explained noise complaints would be a police department issue because construction hours are governed by noise ordinances. Mr. Wegner encouraged the neighbor to document such cases and call police and share complaints.

Ms. Kathleen Parker of 70 Grand Street, Croton-on-Hudson then spoke.

Mrs. Parker wanted to emphasize the points made in her written letter to the Board opposing the project stating that the new addition will ruin her winter views. Ms. Parker also stated that the new porch and railings will further ruin winter views. Ms. Parker shared that there had been previous incidents of not caring for the property such as not shoveling in winter months and not maintaining the property. Ms. Parker stated that rain pours off the roof of the house to the east side "like Niagara Falls" and that she has not seen remediation for the water. Ms. Parker expressed that she felt the construction work will create dirt, noise, pollution which would impede on the sale of her house. Ms. Parker stated that the air conditioning unit will be placed right next to her property near her garage and said she wanted the central AC unit to be moved to another area. Ms. Parker then stated that she hasn't seen a plan about lights for the proposed project and feels there will be light pollution and stated that overall, she feels the plan is incomplete. Ms. Parker concluded by stating that Mr. Conte's property was rented for years and he knew for 3 years that she was moving and now that she needs to sell her house it is absurd that he will be doing a renovation.

Mr. John McKeon of 28 Prospect then spoke on the 68 Grand Street application.

Mr. McKeon summarized what had been shared by Ms. Parker, claiming the case involved a non-conforming house that was there prior to Zoning. Mr. McKeon stated his opinion that there is no hardship on the part of the owner's proposal in terms of the expansion of the usable portion of his residence. Mr. McKeon stated that it's been a testimony of a neighbor that it will obstruct their natural view of the Hudson River. Mr. McKeon

stated that zoning laws are to be enforced when hardship is presented but he did not see a hardship in this case.

The Board responded to Mr. McKeon's statement by sharing that the Zoning Board of Appeals considers all 5 key factors when examining zoning variances.

The Board expressed confusion about statements made specifically regarding the alleged loss of views if Mr. Conte's proposed addition will not be built higher than the height of the current structure. Architect, Mr. DeMasi clarified that the addition is one-story and the deck is pushed inward so there will not be obstruction of views. Furthermore, there was confusion about a statement made by the public that there is an occupant on the bottom floor of Mr. Conte's property. However it was determined that there currently is no one living in the house. Mr. Conte added that after the renovation and proposed addition to the property are complete, he will be living in the property himself and it will no longer be a rental property.

The Board reminded the neighbors that the deck is not at play as there is no variance needed for the construction of the deck. Mr. DeMasi concluded by sharing that the goal is to make improvements on the property.

It was determined by the Board that a site visit would be best to conduct prior to making a decision on the application. Ms. Parker stated that she would like to be notified of the scheduled site visit so that she can be present. Mr. Tuman stated that the Board would set the application aside and the public hearing will remain open and will adjourn at the October Zoning Board meeting.

d) Rilloso, Antonio—123 North Riverside Avenue—Located in a RB 2-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 67.2 Block 4 Lot 10.01. Request for a rear yard variance from Section 230-34 for a proposed new single-family dwelling.

PRESENT: Antonio Rilloso, Applicant

Mr. Rilloso opened by discussing the new construction of a single-family home on the lot located at 123 North Riverside Avenue. Mr. Rilloso stated that the project involves constructing an open parking area (carport and not a garage). The applicant shared that he and his team were looking at the project together and saw that the parking area/carport will be closer than the 30' ft requirement but that the house is far from the property line and therefore have discussed either detaching the carport area or attaching it to the main structure. Mr. Rilloso explained that the team felt that if the carport was detached, it would change the design aesthetic of the home; however, if detached it would not require a variance.

The Board asked the applicant what was on the property. Mr. Rilloso shared on the back of the property there was a garden/vegetation and it's a very beautiful property. Mr. Rilloso added that there was once a small pool on a portion of that property.

The Board noted that there was a previous and rather recent variance granted for the frontage of the property and that it was the first step to legalize the entrance of the lot. Mr. Wegner added that the

previous granted variance will carry with the sale of the property. A member of the public made a comment about the history of the property and 3 parcels being combined. The Board interjected and reminded the individual that they will have a chance to speak when the meeting is opened to the public.

The Board noted that 123 N Riverside Ave was a flag lot that had the front entrance legalized with a variance. Mr. Wegner discussed a brief history of the lot, sharing that it went for Planning Board approval and it will have to go back to the Planning Board for a Minor Site Plan approval. It was then noted that the previous Planning Board approval had approved a larger, taller residence and that the new design presented by Mr. Rillosi is a smaller home than what was originally approved by the Planning Board. In addition to the downsized design, Mr. Wegner explained that the requested variance is solely to attach the carport to the rear of the structure and that the house is “as-of-right” and if the proposed carport were to be detached, it would become an accessory structure and only need to be located 5’ ft from property line (without a variance). The Board examined the house plans, and asked why the design was changed. The applicant explained that he was not involved with the previous owner’s design and that he is purchasing the property with the previous approval. Mr. Rillosi elaborated, explaining that he is buying the property knowing that the lot was approved for a bigger house but they do not want a tall house and have designed something completely different with larger pieces of glass to improve the views of the river and woods.

The Board asked why the design with the carport attached to the house. Mr. Rillosi responded that the roof over the carport and vertical wall creates a plus sign that is an important design element of the house. Mr. Rillosi stated that they wanted the plus sign and if you take it out by detaching the carport, they would not be able to achieve the same architecture.

The Board asked the applicant to explain the topography of the property. The applicant referenced drawings and said the property slopes and that there is a wall that is appx 7-8’ft tall. The Board sought to better understand how the topography, house/carport would impact the neighbors. At that time, the Board determined that it would be best to hold a site visit to gain a better understanding of the lot and what the applicant is seeking to achieve. Mr. Tuman stated that they will open the public hearing and then schedule a site visit.

Mr. Tuman asked the Board if they had any questions for the applicant before opening the public hearing. The Board did not have additional questions and the public hearing was opened.

The members of the public were asked to state their names and addresses.

Ms. Rebecca Backerman-Appleyard of 127 North Riverside Avenue spoke first. Ms. Backerman-Appleyard stated that her house is an old home with a historical background and that has been in her family for over 50 years. Ms. Backerman-Appleyard shared that she never received notification for the initial Planning Board meeting held that granted approval for the original house to be built and therefore without notice, did not have the opportunity to speak on the application. Ms. Backerman-Appleyard discussed her concerns with the construction of the house and carport and the negative impacts it would have on neighboring properties including the steep slope and runoff from 123 N. Riverside Avenue. Ms. Backerman-Appleyard stated concerns about the removal of mature trees and vegetation that currently help to hold soil and the drainage issues that would be caused by the paving of the driveway specific to the runoff from driveway down the steep incline to the rear of her property

and the impacts it may have on her retaining wall. Ms. Backerman-Appleyard further expressed concerns about water service pressure to the surrounding homes as well as the cosmetic and structural damage to her basement and property and stated that the cost of repair would be “astronomical.” Ms. Backerman-Appleyard concluded her statement by requesting that her concerns be included in the minutes and “to act as putting the Village on notice” and stated that if there are drainage issues she will “hold the Village responsible for approving the construction and seek restitution.”

The Board thanked Ms. Backerman-Appleyard for her comments and then asked Mr. Wegner to explain the planning process to the public so that they have an understanding as to what is to be expected and next steps. Mr. Wegner stated that minor site plan approval from the Planning Board does not require public notice; however it will be before the Board and is on the agenda. The Board shared with Ms. Backerman-Appleyard that they understand her concerns and those related to drainage issues are under the purview of the Planning Board and that the Zoning Board does not get involved with that aspect of proposed projects.

The Board confirmed and reiterated that they (Planning Board) would best address their concerns regarding drainage and that it is important that they know when the next meeting will be held and were advised to sign-up for the e-notifications from the Village regarding Board meetings and other important events.

Next, John McKeon of 25 Prospect Place shared his concerns with the Zoning Board regarding the construction of the new, proposed house at 123 N. Riverside Avenue.

Mr. McKeon stated that when the building of a house at the site first came up, he was not notified and learned about it from his neighbors. Mr. McKeon stated that there were 3 properties that he believes were never designed to be building lots were then consolidated to now build on. Mr. McKeon stated that the applicant is representing themselves as the purchaser of the property from the previous owner who sat before the Board and proposed that they needed to build a house and was granted a variance by the Village to allow for a driveway to a flag lot that did not meet the 20’ft requirements to a street. Mr. McKeon then stated that the Village determined by approval that anyone who built on the lot and down the 300’ft long driveway would not be able to shovel or plow snow and that snow would have to be removed by dump truck. Mr. McKeon stated that another determination by the Village was that 300’ ft hoses would not be able to encircle the home in the case of a fire and it was then proposed to install a private hydrant on the property. Mr. McKeon went on to discuss that the Village also determined that house will be on a rock ledge and now the location of the proposed carport will be in the location where the rain mitigation area for the roof was going to be originally placed and that the original proposed garage was not going to be located adjacent to the house because they couldn’t mitigate the water so they then proposed the garage down at the left corner of the property. Mr. McKeon concluded that this case has been a fiasco in that the Village has approved non-compliant flag lots as well as in creating a driveway that runs between two houses that sit on a NYS highway for years.

Ms. Backerman-Appleyard, 127 North Riverside Ave. spoke as stated that the construction of the house will change the character of the neighborhood and create sound and light pollution and that it would be a detriment to the neighborhood specifically in the case of fire. Ms. Backerman-Appleyard stated that between her house and the property are all woods and would act as kindling. The acting

Chairman reminded the public that the application being presented at the ZBA meeting is solely for the carport. Ms. Backerman-Appleyard stated that she understood that but wanted her concerns heard and on record because she had not had a previous opportunity to express them.

Christine Corrado, 133 North Riverside Ave shared with the Board that while she understands that her comment does not have to do with the carport application, she wanted to share that the majority of the driveway to the proposed home would be located behind her house which is an extremely steep slope that would have to be leveled with retaining walls. Ms. Corrado shared that the Planning Board walked through the site on a dry day but that when it rains, the runoff is terrible. Ms. Corrado shared with the Board that many years ago, they had to build a large retaining wall to help mitigate the runoff and it cost them over \$40,000.

The Board shared that the approved site plans by the Planning Board are available online and suggested that they look at the approved plans to see what will be put in place for drainage.

Mr. Mckeen asked if the previous Zoning Board variance granted for the driveway was ever given to and approved by the state. In response, it was shared that ZBA's position was that the driveway pre-existed. Mr. Wegner explained that the existing driveway was there to serve a neighboring residence.

Mr. Wegner clarified for the Board that there is not an existing house on the property but that there was an approved 4 ½ story house. The Board stated that they would set up an official site visit to better understand the lot and impact on the neighbors. The neighbors present at the meeting requested that they be notified of the scheduled site visit and it was noted that residences will be contacted via email to be included in the official site visit.

Ms. Corrado shared there was a lawsuit involving Ms. Salco and the Brennan's and the driveway of the property. Ms. Backerman-Appleyard shared that she would be leaving her written statement, pictures and article referencing the Supreme Court case.

Acting Chairman Tuman asked if there were any additional comments.

Mr. Mckeen asked to please make note to have the elevator in the Municipal Building be accessible to the public so that it can be ADA compliant.

Mr. Tuman thanked the public for their comment and stated that the public hearing will remain open. The applicant, Mr. Rilloso was told that the Zoning Board secretary would reach out to schedule the site visit and that the application would be on the October 12, 2022 meeting agenda.

4. APPROVAL OF MINUTES

It was decided by the Board to postpone the approval of the Minutes of May 11, 2022, June 8, 2022 and July 13, 2022 until Chairperson Wagner is present

5. ADJOURNMENT

There being no further business to come before the board, the meeting was duly adjourned at 9:45 p.m.