

**VILLAGE OF CROTON ON HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS MEETING
WEDNESDAY, September 13th, 2023**

PRESENT: Christine Wagner, Chairperson
Doug Olcott
James Tuman
Daron Weber
Rocco Mastronardi

ALSO PRESENT: Ron Wegner, Assistant Engineer P.E.

1. CALL TO ORDER:

Chairperson Wagner called the Zoning Board of Appeals Meeting to order on Sept 13, 2023 at 8:02p.m.

2. NEW BUSINESS:

a) Alberto Alvarez, Owner-34 Park Trail—Located in a RA-25 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.13 Block 3 Lot 22. Request for a rear yard variance from Village Zoning Code Section 230-33 for a proposed 2nd-story addition in a rear yard setback.

PRESENT: John Turnquist, Architect
Alberto Alvarez, Owner

Mr. Turnquist introduced himself and Mr. Alvarez, property owner to the Board. Mr. Turnquist shared that the current, existing structure is a cottage and that they are seeking a variance to build a 2nd-story addition. Mr. Turnquist noted there will not be an expansion of the footprint, rather they will be going up to increase the square footage and not out. The request being made is for a second story addition of a primary bedroom in which requires the need for a non-conforming rear yard variance. Mr. Turnquist provided the Board with additional photos of the existing residence to help better walk the Board through the request.

Mr. Wegner, Assistant Village Engineer noted that the existing structure previously had a rear yard variance granted for the existing house and that the variance was granted to legalize what was already there. The Board asked Mr. Wegner why the variance was needed if it was built in 1936 (prior to Village Zoning Code). Mr. Wegner stated that there may not have been a certificate of occupancy for the structure.

Mr. Turnquist explained that they are proposing to build up, creating a 2nd level making the cottage more functional and energy efficient. The applicant explained that the existing bedroom will become a study and the new bedroom will be upstairs (proposed addition), noting it will still be a 1-bedroom cottage. Mr. Turnquist shared that Mr. Alvarez will be occupying the property.

The Board made the point that when there is a build that goes up as opposed to out, there is often a concern of blocking views and then asked the applicant if this would be a potential issue. Mr. Turnquist replied that it would not be because the cottage is located in a wooded area which provides a lot of coverage. Mr. Turnquist added that there is no intention for site changes.

Chairperson Wagner noted that there was a neighbor letter of support that was drafted by the architect and that the Board received several signed copies of the letter from surrounding neighbors. Mr. Alvarez then addressed the Board. Mr. Alvarez stated he is the owner of the cottage and that he has lived in the Village for 30 years. Mr. Alvarez added that he has been a local business owner in the area for 20 years. Mr. Alvarez then shared that he had brought the drafted support letters personally to his neighbors and that they were in support of the project.

The Board then asked Mr. Wegner about the vacant land that is part of the Trails Association and how it may relate to the proposed project at 34 Park Trail. Mr. Wegner responded by referencing an aerial map and explained that there are several parcels in the area that are associated with one house and that there is one that is associated with the Trails Association. The Board then noted that the proposed 2nd story addition would not have a significant impact on the neighbors.

Chairperson Wagner asked the Board if they had any additional questions for the applicant. There were no further questions. Chairperson Wagner then opened the public hearing, and hearing no comments on the application, the public hearing was closed.

The Board then discussed and reviewed the 5 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 noted that the cottage is setback from the street 100ft which makes it less noticeable. The Board discussed and agreed that the addition would be an improvement to the home and therefore to the neighborhood.

2. The benefit sought by the applicant can be achieved by a method other than the requested variance.

The Board agreed that the applicant could achieved the desired outcome (bedroom addition) by expanding the footprint of the home as opposed to out but it would require further disturbance of the land. The Board further noted that granting the variance does not decrease the current distance between the structure and the property line.

3. The requested variance is not substantial.
3. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The Board reiterated that by going up with the addition as opposed to out there would be no further disturbance to the land and therefore would not have a negative impact on the physical environment.

5. The difficulty alleged by the applicant was self-created.

MOTION: Mr. Tuman made a motion to grant a rear yard variance of 4'ft for a 2nd-story addition. Seconded by Chairperson Wagner. The motion was carried by a vote of 5-0. All in Favor. Roll Call: Mr. Tuman, yes, Chairperson Wagner, yes, Mr. Olcott, yes, Mr. Weber, yes, Mr. Mastronardi, yes.

b) Jason Chan, Owner-40 Young Ave-Located in a RA-5 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.13 Block 2 Lot 45. Request for a variance from Village Zoning Code Section 230-40C for a fence taller than 30" within the triangle centered at the street lines within 30' feet of the lot corner and from Section 230-40H for a fence over 4 feet in height in a front yard.

PRESENT: Jason Chan & Tiffany Wong, owners

Mr. Chan introduced himself and his wife, Tiffany Wong to the Board as the applicants. Mr. Chan shared that they had been the owners of the property since August 2018 and since that time have been doing improvements to their home. Mr. Chan stated that the next improvement they have planned would be to the yard in which they would like to put up a fence for their children's safety and dog. Mr. Chan explained that their main yard is located on the side of Benedict and corner of Young Ave. Mr. Chan stated that they would to put up a fence between the height of 4'ft-6'ft.

Chairperson Wagner asked Mr. Chan to walk the Board through what he is specifically trying to achieve. The Board asked the applicant to share what height fence and the location of fences are being requested. Mr. Chan referenced the property survey he recently had done. Mr. Chan explained that the front corner area outlined yellow indicates that area in which they are limited by Village fence regulation to a fence no taller than 30" in height however they are requesting a variance to have a 4'ft fence installed around the entire front perimeter including the highlighted corner. Mr. Chan noted that the areas outlined in green is where a 4'ft and less than 50% solid fence would be allowed. Mr. Chan shared they had not really decided what to do with the blue outline around area but was aware if they installed a 6ft fence along that line, it would be an issue too. The Board asked Mr. Chan for clarification because his application requested a 4-6' ft fence to be installed. Mr. Chan clarified that they would like a 6'ft but are at least requesting a 4'ft fence. Chairperson Wagner made clear that on the survey it was only the yellow triangle that is the issue in regards to installing a 4'ft and less than 50% solid fence.

Mr. Wegner, Assistant Village Engineer explained to the Board that highlighted drawings on the survey came to be because he used their property (40 Young Ave) as a general example of how the Village's fence regulations effect corner lots of which the code states that: *Fences or walls in front yards shall be not more than four feet in height and, in the case of fences, not more than 50% solid, with the additional restriction that fences in front yards on corner lots cannot exceed 30" in height within 30 feet of the street corner in order to preserve sight distance.*

Mr. Wegner explained that where the 30'ft yellow triangle in the front corner of the property is was where the applicants are requesting the variance for a 4'ft fence and showed the entire area in which the applicants would like to fence in. Mr. Wegner stated that the greatest concern for fencing in a front corner would be sight distant. Because of those concerns, Mr. Wegner put together site/street view

pictures that better help to illustrate the site distances from all turns and angles at the intersection related to the application.

Chairperson Wagner asked what the metal poles on the survey were marking. Mr. Wegner stated that the poles marked out approximately where the fence would be located. Mr. Wegner then walked the Board through the various site views stated that a concern would be the left turn out of Young Ave however, even with the fence installed the sight distance was maintained.

Ron further noted that there would be no negative impact on making the right turn off of Young when looking to the left. As well as a right turn off Benedict on to Young the fence would have no negative effect on sight lines. And when making a left turn off of Young Ave onto Benedict Blvd, one would have to come around the end of the divider so again there is no negative impact. Mr. Wegner concluded in stating there is decent sight distance from all angles.

The Board raised the concern of pedestrians when stopped a little further back at the stop sign on Young Ave. but concluded as they would approach the corner on the sidewalk, a pedestrian would become more visible to drivers. Mr. Chan made the point that there were once bushes along their property on Benedict Blvd and Young Ave that were large and ran along the edge of the sidewalk which created more of a sightline issue. Mr. Weigman, resident of 100 Benedict Blvd confirmed from the public that the bushes on Mr. Chan's property were approximately 4-4' 1/2" tall and solid shrubs.

The Board noted when looking at the survey that the applicant's main yard is located along Benedict Blvd so there is a need for the fence but asked the applicant if they are looking for an open fence that would be roughly 25% solid as well as 4'ft as opposed to 6'ft in height. The applicant stated that while a 6'ft fence would provide more protection and for uniformity so there would not be a step down but that they would be fine with a 4'ft fence.

Chairperson Wagner then opened the hearing to the public.

Mr. Leo Wiegman and Ms. Julie Evans of 100 Benedict Blvd. came forward to address the Board.

Mr. Wiegman stated that Mr. Chan and Ms. Wong had done a great job with making improvements and noted they had been caretakers of the property when it was foreclosed and further expressed his gratitude on how they have cared for property. Ms. Evans agreed with Mr. Wiegman and shared that they were present to share their concerns with the potential height of the fence. Ms. Evans requested that the Board carefully consider the difference between a 4'ft heigh fence versus a 6'ft. Ms. Evans stated that the consideration should at least be made specific to the fence along Benedict because all the properties along that block have conformed to regulation. Ms. Evans and Mr. Wiegman stated that they agree that a more transparent fence at the corner would be better than the solid hedge row that was previously there and that they were at the meeting only to urge that the Board to be mindful of the height of the fence and felt that a 4'ft fence would be most conforming and fit in best with the neighborhood.

Chairperson Wagner thanked Ms. Evans and Mr. Wiegman for their comments and then asked the Board if they felt they had enough information to decide on the application. The Board agreed they were ready to make a decision.

Hearing no further comment from the public Chairperson Wagner closed the public hearing.

The Board then discussed and reviewed the 5 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 the point that a 6'ft fence would create a "compound look" and an undesirable change to the neighborhood but agreed that a 4'ft transparent fence would help to achieve their goal without being a detriment to the nearby properties.

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 applicants do not have a usable rear yard and that there was no other feasible method to fence in the yard that would provide protection to their children and dog. The Board noted that the hedges that were there previously were more of an obstruction to sight lines than a fence that is 25% or less solid.

3. The requested variance is substantial.

The Board agreed the requested variance is substantial but is mitigated by the property line distance from the street.

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. Tuman made a motion to grant a variance for a 4'ft high, 25% or less solid fence in the 30'ft area on both Benedict Blvd and Young Avenue (within the triangle centered at the street lines and within 30 feet of the lot corner). Seconded by Mr. Olcott. The motion was carried by a vote of 5-0. All in Favor. Roll Call: Mr. Tuman, yes, Mr. Olcott, yes, Chairperson Wagner, yes, Mr. Weber, yes, Mr. Mastronardi, yes.

4. APPROVAL OF MINUTES

Chairperson Wagner made a motion to approve the July 12, 2023 minutes, seconded by Mr. Tuman and carried by a vote of 3-0. Roll Call: Chairperson Wagner, absent, Mr. Mastronardi, yes, Mr. Tuman, absent, Mr. Olcott, yes, Mr. Weber, yes.

4. ADJOURNMENT

There being no further business to come before the Board, the meeting was duly adjourned at 8:39 p.m.

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