

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

PRESENT: James Tuman, Acting Chairperson
Daron Weber
Rocco Mastronardi

ABSENT: Christine Wagner, Chairperson
Doug Olcott

ALSO PRESENT: Ron Wegner, Assistant Engineer P.E.
Ian Murtaugh, Village Trustee Liaison

1. CALL TO ORDER:

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

2. NEW BUSINESS:

a) Zajac, Kathy, Agent-- 71 Melrose Ave—Located in a RA-5 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.5 Block 4 Lot 31. Request for a rear yard variance from Village Zoning Code Section 230-40A (1)(B) for an existing shed.

PRESENT: Kathy Zajac, Agent/Owner

Ms. Zajac introduced herself to the Zoning Board of Appeals. Ms. Zajac stated that she was before the Board to seek approval for a variance for an existing shed that had been on her in-law's property located at 71 Melrose Ave. for approximately 40 years. Ms. Zajac explained that the house was built in 1954 and the shed was built in approximately 1984. Ms. Zajac stated that the family inherited the property and when the property was transferred over, they learned there was no building permit or certificate occupancy for the shed. Ms. Zajac further explained that during the transfer, a title search was performed and aerial views of the property showed there was a shed on the property and the Village Engineering Department then came out to inspect the shed. The applicant explained that it was during the inspection when they discovered the shed was closer than 5'ft to the property line hence her application to the ZBA requesting a rear yard variance of 3.33'ft to allow for the existing shed to remain on the property. It was then further discussed that

if the variance were granted, the applicant would then also have to legalize the shed with a building permit and certificate of occupancy. The Board highlighted that the shed had been in existence since 1984 and built on a concrete pad. Ms. Zajac stated that the concrete pad was the main reason why they did not want to move the shed and chose the route of requesting a variance to keep it in its original location.

Acting Chairperson Tuman asked the Board if they had any questions for the applicant. With no questions from the Board, the meeting was opened to the public. Hearing no comment from the public, Acting Chairperson Tuman closed the public hearing.

Acting Chairperson Tuman then opened the hearing to the public. Hearing no comment, the public meeting was closed.

The Zoning Board of Appeals discussed 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 agreed that the shed had been on the property for 40 years and there were no complaints. It was clear the shed did not have a negative impact on the nearby properties or neighborhood.

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

3. The requested variance is not 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 not self-created.

MOTION: Mr. Weber made a motion to grant a rear yard variance of 3.33'ft for an existing shed. Seconded by Mr. Mastronardi. All in favor. Roll call: Mr. Weber, yes; Mr. Mastronardi, yes, Mr. Tuman, yes (Mr. Olcott, absent & Chairperson Wagner, absent).

b) Roane, Lewis, Architect for Rachel & Paul Marino, Owners--9 Georgia Lane—Located in a RA-40 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.10 Block 2 Lot 1. Request for a side yard and total side yard variance from Village Zoning Code Section 230-33A for a proposed addition.

PRESENT: Lewis Roane, Architect
Rachel Marino, Owner

Mr. Roane introduced himself to the Board as the architect for the proposed project located at the above-named property. Mr. Roane then introduced Ms. Marino as the property owner. Mr. Roane stated that his client, Mr. & Ms. Marino are seeking to build a 2-car garage with a family room above that would be built using the existing driveway. Mr. Roane stated that the size of the addition is the reason why his clients are seeking a side yard and total side variances.

Ms. Marino added that with the addition of the garage and living room, they would be losing the ability to turn around in the driveway, however they would then be able to enter the garage from the front of the house as opposed to from the side. The Board noted that the pictures provided by the applicants were very helpful in illustrating the request.

Acting Chairman Tuman asked Mr. Roane if they had considered other options in the design of the addition so that a variance would not be required. Mr. Roane replied stating that they had considered creating the addition on the other side of the property but it did not make sense because there is no driveway on that side. Furthermore, the septic tank is located on the other side of the front yard and they did not give much consideration to using the rear yard because there are large boulders in the backyard that would present a great challenge during construction.

The Board pointed out that only one letter of neighbor support was provided to the ZBA. Mr. Wegner, Assistant Village Engineer mentioned that Chairperson Wagner (absent) was a neighbor of Ms. Marino's and had Chairperson Wagner been present at the meeting, she may have had to recuse herself from the application. Ms. Marino explained to the Board that a very nice row of pines between her and her neighbor's property that may help to buffer sound from the construction. Mr. Roane stated that his client's driveway and the neighbor's driveway run parallel to each other. The Board asked if there would be any issues with drainage. Mr. Roane stated there's a culvert from the stream and it is staying out of the right of way. The Board wanted to ensure there were no limiting factors to the envelope of the structure. There were no further comments or questions from the Board.

Acting Chairperson Tuman then opened the hearing to the public. Having no comment from the public, the public hearing was closed.

The Zoning Board of Appeals discussed 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 and agree this it was a minimal variance request and there is support from their neighbor and all agree that they see no issue or negative impact in the granting of the variance.

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

The Board agreed an alternate location would not make sense at the septic tank and boulders in the rear yard would present issues and the proposed design is practical in that it uses the existing driveway.

3. The requested variance is not 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. Tuman made a motion to grant a side yard variance of 5.0'ft and a total side yard variance of 9.0'ft for a proposed addition. Seconded by Mr. Weber. All in favor. Roll call: Mr. Tuman, yes, Mr. Weber, yes; Mr. Mastronardi, yes (Mr. Olcott, absent & Chairperson Wagner, absent).

c) Oroszlany, Peter, Owner--41 Harrison Street-Located in a RB 2-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.17 Block 2 Lot 22. Request for a front yard variance from Village Zoning Code Section 230-40B and a height variance from Village Zoning Code Section 230-40A(1)(a) for a proposed 4-car garage.

PRESENT: John Power, Architect
Peter Oroszlany, Owner

Mr. Power began by introducing himself and the property owner, Mr. Oroszlany to the Board. Mr. Power explained that the proposed project consists of removing an existing garage and replacing it with a 4-car garage that would infringe on the front yard setback. Mr. Power shared that the new structure has a conditioned attic space with a proposed home gym and storage above the garage. Mr. Power noted that it is an unusual situation in which the primary structure sits very far back from the front property line while on that street the majority of the neighboring properties are much closer to the street. Mr. Power then stated that the 2 variances being requested were for the garage being closer to the street by 8.5'ft than the primary residence and for a height variance, noting that the height being used is the slab height to the ridge of the structure and that is in the front of the structure where the garage doors are. Mr. Power added that there is a slope to the lot where the rear of the conditioned attic space is slightly above the grade level in the rear.

The Board asked the applicant(s) why they needed to build so high that a height variance would be required. Mr. Power stated that there is very limited storage in the primary residence of which is a 2-family house and the 2nd floor of the garage with added height would create much needed storage. Mr. Power further explained that the garage would allow for Mr. Oroszolany to be able to store his antique vehicles on the premises as well. Mr. Oroszolany stated that one of his cars is an antique van and that the proposed added height on the 1st floor would accommodate that vehicle.

In reference to the impact the proposed garage may have on neighboring properties, Mr. Power explained that Mr. Oroszlany owns 34 Harrison Street and 31 Harrison Street and that the property across the street from 41 Harrison are Mr. Oroszlany's cousins. Mr. Power added that there is a brook that runs along the other side of the property (referencing the photograph that shows the brook between him and the neighboring property).

The Board discussed and agreed that they were holding issue with the extent of the height variance requested. The Board stated that they were ok with the accessory structure being located in front of the primary residence however felt that the size of the proposed structure was rather large, and particularly the height request was substantial (50% variance for the height). After some deliberation the Board agreed that a site visit would be helpful before deciding on the application. The Board requested that the applicant mark out the location/size of the proposed garage.

Acting Chairperson Tuman stated that the application remained open and a site visit would be scheduled. Mr. Tuman further explained that the applicant would have to come back next month and present again to the Board.

d) Toretta, Stephen, Owner-117 Oneida Avenue-Located in a RA-5 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.9 Block 10 Lot 22. Request for a side yard variance from Village Zoning Code Section 230-33(A) for a proposed addition.

PRESENT: Stephen & Michelle Toretta, Owners
Mathew Snethen, Architect
Peter Schuyler, Attorney

Mr. Snethen introduced himself to the Board as the current architect for the project as well as an adjacent neighbor to Mr. & Mrs. Toretta. Mr. Snethen stated that as seen in pictures, the applicants had received a building permit for the construction of the addition to the house. Mr. Snethen added at that time of approval there was no indication that the project would require a side yard variance. Mr. Snethen shared that Mr. & Mrs. Toretta started the process of obtaining a building permit for the addition to their home in 2019 and did substantial research in hopes to avoid needing a variance for the construction. Mr. Snethen added that during that process they had asked the Engineering Department if there were any concerns with the existing position of the house and whether or not it was non-conforming. Mr. Snethen stated that based on those conversations, there were no non-conforming conditions found at that time.

Mr. Toretta shared with the Board that he learned that many of the homes in their neighborhood are non-conforming of which he was unaware of until Mr. Wegner had stopped by (after construction began) to inform them that a variance for the project may be required because the existing structure was already encroaching on the side yard. Mr. Toretta stated that they stopped all construction work immediately. The Board then asked for clarification and specifics on the addition. Mr. Toretta explained that they are extending the house to the back and up but keeping with the same, existing line of the house. It was stated that there is a 17'ft increase in depth and they had some challenges with the design of the staircase that accesses the attic so they had to raise the existing height volume of the house and were able to still be within the 3'ft setback. Mr. Snethen added that they had therefore not changed either of the setbacks and that the total side yard setback meets requirements and the side yard setback on the north was the only non-conforming setback requiring a variance. Mr. Snethen added that the existing structure was non-conforming and they would be extending the non-conforming condition. Mr. Toretta stated that

as soon as they learned they needed the variance, he immediately spoke with his neighbors all of whom submitted letters of support including the neighbor who is most directly affected by the variance.

Mr. Schuyler, attorney representing the property owners, spoke and addressed the original question as to why the application was before the Board. Mr. Schuyler explained that it was because there initially was no survey of the property and the original architect drew up plans and marked the setback as 8'ft on a plot plan that was submitted with the application and because the setback was marked with an 8'ft side yard setback, the building permit application was approved and construction began.

Mr. Schuyler stated that the only piece of the new addition that can be seen from the street (front) is a small peak stating that the only visual impact may be from the back, however the height of the addition is compliant with zoning regulation. Mrs. Toretta discussed consideration of alternate designs and stated that if they had shifted the addition, it would be more of an eye sore and block the driveway. It was again noted that the height is compliant and the only non-complaint is on the one side yard.

Mr. Tuman stated that just for clarification, the house was here for 100 years and thought that the side yard setback was 8ft during review so that application was approved and received a permit in August 2023 when work then started and then in October, a neighbor called the Building Department to express issue with the height of the addition which triggered a site visit from Mr. Wegner where he observed that it did not look the setback was the correct distance. It was also discovered then that there were no surveys on file for 117 Oneida or any of the adjacent properties. So, at that point construction immediately stopped and a Zoning Board application was filed and the homeowners got a survey of the property done. The homeowners shared that they tried very hard to do their due diligence 5 years ago to avoid such an issue as this.

It was then noted that neighbors located at 121 Oneida Ave., 116 Oneida Ave. (directly across from their home) and 118 Oneida, directly across from 121 were all in support of the project.

Acting Chairperson Tuman opened the hearing and with no one being heard, the public meeting was closed.

The Board discussed 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.

It was again noted that many of the houses in the neighborhood are non-compliant and all the neighbors expressed support of the project.

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

The Board discussed and agreed that they do not hold issue with the 3'ft variance as it is a minimal request and that the project is already 50% done.

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

The Board discussed and agreed that even if they came before the ZBA prior to the start of construction for approval, the application would be approved as what was proposed was the best design solution to keep with the existing non-conforming line of the house and is least intrusive design option.

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

MOTION: Mr. Weber made a motion to grant a side yard variance of 3'ft for an addition. Seconded by Mr. Tuman. All in favor. Roll call: Mr. Tuman, yes, Mr. Weber, yes; Mr. Mastronardi, yes (Mr. Olcott, absent & Chairperson Wagner, absent).

e) Dillon, Matthew, Owner—100 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 1 Lot 13. Request for a variance from Village Zoning Code Section 230-40H(1) for a fence over 4 feet in height and more than 50% solid in a front yard.

Mr. Dillon introduced himself to the Board as the homeowner and stated that he is seeking to replace a 4'ft chicken wire fence on his property with a solid 4'ft fence and one 6'ft solid panel that would continue an existing solid 6'ft fence on the property. Mr. Dillon stated that the solid 6'ft fence is owned by his neighbor who provided the letter of support. Mr. Dillon stated that the proposed 4'ft fence is located over a sloped overgrown section that is on Young Ave. and that his goal is to clean up the overgrowth and place a 4'ft solid fence there to create privacy from the street.

The Board asked why the 6'ft tall fence needed a variance. Mr. Wegner, Assistant Village Engineer stated it was because it is within the 15'ft front yard setback from Young Avenue. Mr. Wegner noted that there is no survey for this application but the black line on the aerial picture represents the property line and in one of the pictures provided to the Board it can be seen where the existing 6'ft fence is, adding that one of those panels was missing. Mr. Tuman clarified that the property line is effectively 15'ft from the street. Mr. Wegner confirmed. The Board asked for more information as to why the applicant felt they needed a solid fence. Mr. Dillon stated that they have a child, one on the way and a dog so the fence would help to create a barrier on the street that is perpendicular to Oneida Ave and Mr. Dillon expressed

The Board expressed their hesitation to grant a variance for a solid fence in this situation, adding that the Village is not in favor of solid fences in front yards which is why the regulations exist. Mr. Tuman stated that he felt it would be helpful for the applicant to come back to the Board at the next meeting with various fence options that are not 100% solid. Mr. Dillon again referenced the neighbors' fences but the Board noted those most likely went up prior to the establishment of Village fence regulations. Mr. Dillon also expressed that he felt he could not achieve the desired outcome if the fence is not solid. The Board asked the applicant if they considered shrubbery as an option to create privacy. Mr. Dillon stated that he considered it but believed that the screening would only be seasonal and that there would be a lot of maintenance

involved as well. The Board then noted that the distance to be covered is approximately 55'ft and that would require a significant amount of shrubbery.

The Board again expressed their apprehension with approving a solid fence in the front yard as they must follow statute. The applicant stated he did not want to pursue an option that was not 100% solid but the Board urged the applicant to consider providing options to the Board. The Board would do a site visit and Mr. Dillon could then return before the Board when all 5 members were present to vote. The applicant agreed to a site visit and providing alternate fencing options to the Board.

Acting Chairperson Tuman stated the fence application for 100 Young Ave would remain open.

f) Arnow, Joseph, Architect for Johil & Gadiel Ross, Owners—15 Radnor Ave—Located in a RA-5 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.9 Block 2 Lot 73. Request for a side yard and front yard variance from Village Zoning Code Section 230-33A for a proposed 2nd story addition.

PRESENT: Joseph Arnow, Architect
Johil Ross, Owner

Mr. Arnow introduced himself to the Board as the architect for the project and Mr. Ross as the applicant. Mr. Arnow stated that they are proposing to build a 2nd story addition on top of the existing footprint (not expanding out, just building up) as well as for the construction of a rear deck. Mr. Arnow stated they are requesting variances to maintain the same, existing non-conforming compliance setbacks that had been approved under a 1989 variance that were issued to the prior owner. Mr. Arnow then provided a description of the lot, stating that it is in a RA-5 1-family residential district and on the corner of Radnor Ave and Olcott Ave and therefore has 2 front setbacks. Mr. Arnow stated that the required setback is 15'ft and the existing front yard setback is 13.42'ft along Radnor and the current setback along Olcott Ave is 7.9'ft (not including an existing bay window). Mr. Arnow added that the side yard setback requirement is 8'ft but as it exists, on the east side of the house was 4.44'ft. Mr. Arnow reiterated that all the non-compliant setbacks described were approved by the ZBA in 1989. Mr. Arnow added a correction to the application should include an existing bay window on the side of the house that projects 1.5'ft and is shown on the floor plan but not on the site plan. Mr. Arnow explained that if the bay window was included in the side yard setback they would have to add on another 1.5'ft, which would then make the request 6.7'ft. Mr. Arnow stated that the request is being made based on the fact there are many 2-story homes in the neighborhood and therefore feel there would not be a negative impact on the character of the neighborhood and that adding up rather than out is the most efficient method to create more living space. Mr. Arnow stated that if they were to alternately shrink the walls to meet compliance, it would involve significant structural changes and challenges. Mr. Arnow then described the topography of the lot, sharing that the house sits on land that is elevated from the street and along Radnor Ave, the house is approximately 6'ft above the street and along Olcott, it's about 7.5'ft above the street and due to the topography, the visual setback may appear greater than if the house sat lower. Mr. Arnow shared that neighbor notices were received and the neighbors approached the homeowners and no objections had been raised.

Acting Chairperson Tuman summarized that the request was to put a 2nd story addition on top of the existing footprint of which received variances in 1989. Mr. Arnow confirmed that was correct. The Board then examined the pictures and drawings provided. Mr. Arnow added that the previous owners did additions to the house previously which prompted the 1989 variances. Mr. Tuman asked about the plan for the rear deck. Mr. Arnow responded the deck is to extend straight back and would follow the 4.44ft side yard setback would not go further out to the side. The Board acknowledged that the proposed deck would then be outside of the original footprint but it would maintain the original building line.

The Board discussed the appearance and possible visual impact of the addition from the street due to the topography of the lot and felt it may appear larger than it would be. However, it was agreed that there are several 2-Story homes in the area that sit on similar lots and it is not exceeding height requirements.

Mr. Olcott then opened the hearing to the public.

Mr. Michael Kolk of 114 Elmore Avenue came forward to speak.

Mr. Kolk stated his home is a block west from Radnor Ave, and is located on the dead end of Elmore Ave and noted is not an immediate neighbor. Mr. Kolk stated he knew that the house (15 Radnor Ave) sits closer to the street line and he held no issue with the addition if it is sticking with the original footprint and not expanding out. However, Mr. Kolk shared he had concerns with the height of the addition but added he had not seen any images of the proposed project. Mr. Kolk referenced the 41 Harrison Street application and felt there was a height issue there as well. Mr. Kolk stated that he felt that there was an overall, major issue with Village Zoning regulation with height allowances. He stated that the general 35'ft height limit should be re-examined and considered closely. The Board acknowledged Mr. Kolk's concerns but shared that the applicant is not requesting a height variance and is well within the height regulation. Mr. Arnow noted that the addition would be about 10'ft lower than limit. Mr. Arnow added that the total height with the addition would be 25'ft.

The Board continued discussion about the appearance of the addition. The Board asked Mr. Arnow for clarification on the floor-to-floor height measurements for the 2nd story, which was reported to be 8'ft in height. The Board also asked about roofline options and if the roofline may impact the overall height of the structure. Mr. Arnow stated he proposed 2 designs one with a gambrel roof and one with a gable roof. However, while there were concerns about the appearance of the height of the structure it was concluded that the proposed addition is well within the height requirements and the application is really about the side yard setback.

Acting Chairperson Tuman asked the Board if they had additional questions for the applicants. There were none and hearing no further comment from the public, Mr. Tuman then closed the public hearing.

The Board discussed 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.

Property line is setback far which is in their favor, only issue is with the side yard.

2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance.
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. Mastronardi made a motion to grant a side yard variance of 3.56’ft, a front yard variance of 1.58ft on Radnor Ave and front yard variance of 8.53’ft on Olcott Ave for a proposed addition. Seconded by Mr. Tuman. All in favor. Roll call: Mr. Tuman, yes, Mr. Weber, yes; Mr. Mastronardi, yes (Mr. Olcott, absent & Chairperson Wagner, absent).

**It is noted that the existing garage, for which no improvements are proposed has previously received a variance allowing a zero-foot front yard by the Zoning Board of Appeals on October 11, 1989.

3. APPROVAL OF MINUTES

The **approval of** meeting minutes from November 8, 2023 were postponed to next month’s meeting, scheduled to be held on Thursday, January 11, 2024.

4. ADJOURNMENT

The meeting was duly adjourned at 10:03 p.m.

Respectfully Submitted by,

Stefanie Correale
Secretary to the Zoning Board of Appeals