

**VILLAGE OF CROTON ON HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS MEETING
THURSDAY, FEBRUARY 8th, 2024**

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

ALSO PRESENT: Ron Wegner, Assistant Engineer P.E.
Mayor Pugh, Village Trustee Liaison

1. CALL TO ORDER:

Chairperson Wagner called the Zoning Board of Appeals Meeting to order on February 8, 2024 at 8: 04 p.m.

2. NEW BUSINESS

a) Jessica & Erik Nelson, owners –38 Franklin Ave-Located in a RA-9 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.13 Block 4 Lot 50. Request for a side yard and rear yard variances from Village Zoning Code Section 230-40A(1)(b) for an existing detached garage.

PRESENT: Rosanne Schuyler, Attorney for applicants

Ms. Schuyler introduced herself to the Board stating she was representing the applicants, Erik and Jessica Nelson. Ms. Schuyler stated that her clients were requesting 2 variances in regards to an existing, detached garage that sits too close to the property line. Ms. Schuyler stated that they were seeking a 3'ft side yard variance and 1.6" ft rear yard variance for the existing garage. Ms. Schuyler provided the Board with some background information pertaining to her clients sharing with the Board that they bought the house in 2014, at the time of the purchase, they received a title report and the documents included, indicated that the house was pre-existing, non-conforming. Ms. Schuyler further explained that the Village provided several certificates of occupancies for the property that were on file and it was assumed that the garage was an original improvement and covered under the certificate of occupancy for the house as it was not indicated otherwise. Ms. Schuyler added that her clients purchased the house 9 years ago they did not alter or change the house and/or garage in any way. Ms. Schuyler explained that the garage is in fact a legal structure under a building permit that was issued to do an extension on the garage in 1990 and a certificate of occupancy was issued as well but a variance was not and should have been for garage sitting too close to the property line.

Ms. Schuyler then presented several letters of neighbor support from the surrounding properties.

The Board asked when the garage was built. Ms. Schuyler stated that they did not do an extensive search on when the detached garage was originally built but that it had been in existence for the last 60 years leading to the belief that there would be no negative impact on the neighborhood. Ms. Schuyler then shared their stance on several of the factors stating that the impact of not granting the variances would

have serious implications and damages to her clients, elaborating that there would be a loss of buyers on the sale of the property and that her clients would incur a major cost to demolish the garage and they would lose value in their home by removing the structure. Ms. Schuyler stated they are requesting small variances.

Chairperson Wagner then opened a public hearing. Hearing no comment from the public, the hearing was closed and the discussion was turned to the Board.

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.
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. Tuman made a motion to grant a side yard variance of 3.0'ft and a rear yard variance of 1.6'ft for an existing detached garage (accessory structure). The motion was carried by a vote of 5-0. All in Favor. Roll Call: Mr. Tuman, yes, Mr. Mastronardi, yes, Mr. Weber, yes, Chairperson Wagner, yes, Mr. Olcott, yes.

b) Lisa Moir, business owner (The Blue Pig), —18 Old Post Road South with a business address of 121 Maple Street—Located in a C-1 Central Commercial District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.8 Block 7 Lot 7. Request for a variance from Village Zoning Code Section 230-35 for off-street parking due to the elimination of off-street parking spaces.

PRESENT: Lisa Moir, Tenant/Business Owner (The Blue Pig)

Ms. Moir began by introducing herself to the Board stating that she was the business owner of The Blue Pig. Ms. Moir explained that the location of The Blue Pig is 121 Maple Street but that the property is connected to and is under the tax lot/property of 18 Old Post Road South of which is owned by Mr. Mark Franzoso. Ms. Moir stated that Mr. Franzoso, property owner, was in support of her being present at the Zoning Board of Appeals meeting to request to remove the off-street parking spaces on the lot.

Ms. Moir explained to the Board that during the pandemic when businesses were allowed to re-open, there were 6'ft spacing requirements (social distancing). The applicant further explained that the space inside the shop was too small to operate with the social distancing restrictions. Ms. Moir stated that with not enough space inside the shop for service, they used a service window and the 3 off-street parking

spaces adjacent to the building for service. Ms. Moir explained that she purchased the business 14 years ago from her brother-in-law and at that time there were 3 off-street parking spaces and that there had been a previous variance granted because the two properties are attached (121 Maple and 18 Old Post Road South that is now the Organic Teaching Kitchen). Ms. Moir stated that at the time of purchase, State Farm Insurance occupied the office space and before that an individual lived in the top 3 floors that are now therapist offices. Ms. Moir further explained that when the property owner wanted to make the space apartments (18 Old Post Road S), they were required to get a variance for the apartments and one of the conditions was to have off-street parking due to the change from a commercial property to a residential property. Ms. Moir noted that 18 Old Post Road South was no longer a residential use however the off-street parking spaces remained and that when State Farm Insurance left, there was an understanding that all 3 spaces were solely Ms. Moir's to use. Ms. Moir stated that after the pandemic, she has continued to use the off-street parking spaces for outdoor dining for the past 3 years.

Ms. Moir then shared that she recently received an email from Village Engineer, Dan O'Connor stating that the service use of the off-street came to their attention and that a variance would be required to officially eliminate the off-street spaces. Ms. Moir stated that she felt it was important for it to be known that when she replied to Mr. O'Connor, the Board, and Police Department she expressed that it "Was no skin off her back" to remove the fence and put the parking spots back, and that her business does not depend upon the use of the parking spaces as outdoor dining. Ms. Moir stated that she felt it was important to go on record to say that in the 14 years she has owned the Blue Pig, the traffic patterns have changed drastically and have become increasingly worse and more dangerous. Ms. Moir described it as a blind pull out onto a busy street where there are often many large carting trucks barreling down that road. Ms. Moir, shared that she herself had her car totaled outside of the Blue Pig and that last year a child was hit by a car there, and that 6 months later another person got "bumped" as well. Ms. Moir then discussed the challenges of backing out of the existing off-street parking on to Maple Street and that it is not only dangerous but would also create an unpleasant dining experience with people honking at cars pulling out.

Chairperson Wagner asked the Board if they could picture what was being described.

Mr. Wegner, Assistant Village Engineer shared aerial view photos of the intersection with the Board. Mr. Wegner stated that the pre-pandemic photos showed the white van and one could see the orientation around the turn from OPRS right on to Maple St. Mr. Wegner addressed Ms. Moir stating that the Planning Board already granted site plan approval and that Ms. Moir would have to return to the Planning Board, if granted the variances for an amended site plan approval. Mr. Wegner stated that the Planning Board may ask that Ms. Moir replace/rebuild the dropped curb which could be costly.

The applicant then stated that the cost to replace the curb on Maple Street would be a major hardship in expecting to spend \$20,000-\$30,000 to do so. Ms. Moir stated it would be troublesome to spend that amount of money especially while she has been operating the business for so many years without it.

Mr. Wegner then stated that there would be the recommendation that there is an additional condition added to the variance if granted.

Chairperson Wagner asked the Board if they had additional questions for the applicant. The Board did not. The Board agreed that it was evident that it is a tight, highly trafficked area and the off-street parking spaces in pulling in and out would actually be a detriment to pedestrians, drivers and patrons.

Chairperson Wagner then opened the meeting to the public.

Mr. Peter Schuyler of 41 Olcott Avenue came forward to speak in favor of the granting of the variance to eliminate the off-street park. Mr. Schuyler shared he felt The Blue Pig was a great business, felt that the request met the 5 Factors and everyone who knows the area is familiar with the traffic situation.

Hearing no further comment from the public, the hearing was closed.

The Board discussed 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.
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; and in fact, will likely improve traffic and safety conditions in the area.
5. The difficulty alleged by the applicant was self-created.

MOTION: Mr. Mastronardi made a motion to grant a variance to eliminate off-street parking spaces Seconded by Mr. Tuman. The motion was carried by a vote of 5-0. All in Favor. Roll Call: Mr. Tuman, yes, Mr. Mastronardi, yes, Mr. Weber, yes, Chairperson Wagner, yes, Mr. Olcott, yes.

c) Ameriland Brook LLC, architecture & design firm, representing Lijuan Jiang (property owner)—352 South Riverside Avenue—Located in a C-2 General Commercial and Harmon/South Riverside Gateway Overlay Districts and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.13 Block 1 Lot 74, 75, & 83. Requests for side yard and rear yard variances from Village Zoning Code Section 230-35, a front yard variance from Village Zoning Code Section 230-20.3B(3)(c)[3], a variance from a Village Zoning Code Section 230-20.3B(3)(c)[1] for a store front glass area and a variance from Village Zoning Code Section 230-20.3B(3)(a)[3] for 100% of all apartments to be 2-bedrooms pertaining to a proposed mixed-use building with 5 apartments.

PRESENT: Yunlai Gao, Property & Business Owner

Ms. Gao introduced herself to the Board as “Lee,” the property owner. Ms. Gao was uncertain what to share with the Board. Chairperson Wagner asked the applicant to describe the project and provide the Board a brief description of the reasons for needing the variances. As Chairperson Wagner noted there were several variances being requested. Ms. Lee stated that it was always a dream of hers to have a property such as this and that they would like to do an addition of 5 apartments above the existing restaurant and that the building looking nice is very important to her. The Board noted that one of the variance requests was to allow for all the apartments to be 2-bedrooms. The Board asked the reason behind wanting all 2-bedroom apartments. Ms. Gao expressed that all 2-bedroom apartments made the most sense and would be best used. Mr. Wegner, Assistant Village Engineer shared with the Board that a detailed written response to the 5 Factors had been provided with Ms. Gao’s application.

Mr. Olcott read aloud the responses to 5 Factors on the application (attached) to help illustrate what and why the applicant is making the request for the several variances.

After the answers to 5 Factors were read, Chairperson Wagner mentioned there was a memo (recommendation) from the Planning Board of which already granted site plan approval for the project.

Mr. Wegner stated that the project had received Planning Board approval but that the approval for construction of the addition was contingent upon the granting of the requested variances. Mr. Wegner then presented the Board with a streetscape view where the proposed in-fill building could be seen as well as the canopies out front with the posts that hold them up. Mr. Wegner stated they tried to differentiate between the variances for the canopies and the building itself. The Board then asked Mr. Wegner if any of the parking spots in the rear were going to be removed as additional spots would most likely be needed for the apartments. Ms. Gao confirmed there would be additional spots and Mr. Wegner showed a shed on the property that would be removed to create more space and stated the appropriate parking was part of the Planning Board approval.

The Board briefly discussed the process of Planning Board approval to the granting of variances and then moving to the issuance of a building permit from the Village Engineer's office. The Board discussed the request for all the apartments to be 2-bedrooms noting that these types of buildings are expensive to build and oftentimes 2-bedroom apartments help to fund such projects as they bring in more rent. It was further noted that a 2-bedroom apartment layout is also more efficient. Mr. Wegner stated that the 3ft side yard setback would allow for passage and maintenance. The Board agreed that if it is 9 inches from the side it is not possible to build up to the line. The Board also noted it was unusual that there is a 12'ft setback in that area because it is usually desired to have commercial buildings on the street line.

Chairperson Wagner then opened the meeting to the public, hearing no comment from the public the hearing was closed.

The Board reviewed and 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 having this type of building would be a benefit to the Village.

2. The benefits sought by the applicant can be achieved by a method other than the requested variances; however, the plans are consistent with the vision for this gateway district and the proposal is preferable to what would be allowed as of right.

3. The requested variances are substantial.

4. The proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and are expected to improve the neighborhood.

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

MOTION: Mr. Olcott made a motion to grant a side yard variance of 7'ft, a rear yard variance of 7'ft, a front yard variances of 2'ft 11" (for the building), a second front yard variance of 7'ft 3" (future canopies), a variance for ~35% glass area for a store front, and a variance from Village Zoning Code Section 230-20.3B(3)(a)[3] for 100% of all apartments to be 2-bedrooms pertaining to a proposed mixed-use building with 5 apartments. Seconded by Mr. Tuman. The motion was carried by a vote of 5-0. All in Favor. Roll Call: Mr. Tuman, yes, Mr. Mastronardi, yes, Mr. Weber, yes, Chairperson Wagner, yes, Mr. Olcott, yes.

3. APPROVAL OF MINUTES

Chairperson Wagner made a motion to approve the January 11, 2024 minutes. Seconded by Mr. Mastronardi. All in favor. The motion was carried by a vote of 5-0.

ADJOURNMENT

The meeting was duly adjourned at 8:49p.m.

Respectfully Submitted by,

Stefanie Correale
Secretary to the Zoning Board of Appeals

325 SRA Zoning Board of Appeals Application

5 Factors:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties:

The proposed mixed-use building with five apartments and one commercial tenant space is an allowable special permit use in the C-2/Gateway Overlay zoning district. A special permit from the Village Board has been received and site plan approval from the Planning Board has also been received. The proposed 3-story building is an infill development between the Samurai Restaurant and the Harmon Deli and will improve the streetscape of the Harmon commercial area. A rendering of the proposed building is included in the application documents.

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance:

The proposed three-story building is being designed to have its front façade line up with the front façade of the existing building. The existing building is setback approximately 10 feet to 12'-1" setback from the front property line. The property was located in a C-1 zoning district before 2001 which required no front yard setback and is currently located in a C-2/Gateway Overlay zoning district. The underlying C-2 zoning district requires a 10-foot front yard setback however the Gateway overlay zoning district requires a front yard setback between 15 feet and 20 feet for new buildings and a front yard setback between 10 feet and 20 feet for existing buildings in order to be eligible for an FAR of 0.8. The proposed building has a minimum setback of 12'-1" for the building and a 7'-9" front yard setback for the canopies. The proposed building also lines up with the front of the adjacent building (Harmon Deli) to the south and the canopies line up with the canopies on the existing building.

The required side and rear yard setbacks are zero feet or ten feet. A zero-foot setback is used when buildings are built on the lot line which would allow an adjacent building to be built also on the lot line, so the two buildings appear to be attached with no space between the buildings. The existing Harmon Deli building is located approximately 0.9 feet from the lot line so building the proposed building on the lot line is not feasible in this case since the 0.9-foot setback for the Harmon Deli would create issues with maintenance of the building, etc. The building could be located 10 feet from the property line which would provide sufficient space for an access drive to the rear of the building. However, this is not needed since the property is located on a corner lot and access to the rear of the building and property is provided from Clinton Street. The proposed 3-foot setback to the side and rear property lines provides for a walkway around the building for access and maintenance. The building will have a fire sprinkler system and fire-rated exterior

walls in compliance with the Building Code of NYS. The 3-foot setback also allows a certain percentage of windows to be installed in accordance with the Building Code of NYS.

Five two-bedroom apartments are being proposed. The zoning code requires that not more than 50% of the apartments be two-bedroom units. The proposed building would have three additional bedrooms over what is allowed by the zoning code. The two bedrooms have an occupancy of five people total per the Property Maintenance Code of NYS based on their size. If they were combined into a single larger bedroom the occupancy of the one larger bedroom would be six people or one additional person per apartment. The two separate bedrooms provide additional privacy and will not increase occupancy of the apartment.

The glass area for the first-floor commercial premises is approximately 25% verses the required 60% area of the store front. The windows on the street level façade of the front of the proposed building are designed to match the windows on the street level façade of the front of the existing building. The 60% transparent glass requirement was to facilitate visibility into the building's first-floor commercial premises and a retail streetscape look. The proposed design of the building carries over the design of the existing building with similar exterior treatment including window heights and arched canopies. The zoning code for the gateway overlay zone was modified in 2012 to also allow a complete multi-family building with no commercial/retail space.; this type of building would not have a front façade with 60% glass.

3. Whether the requested area variance is substantial:

The side and rear yard setback increase of zero feet to 3 feet is not considered to be substantial.

The front yard setback of 12'-1" for the building and 7'-9' for the canopies is not considered substantial given the location of the existing building to the north and south of the proposed building.

The variance for not more than 50% of the apartments be two-bedroom units is not substantial based on the above discussion.

The proposed 25% transparent glass area may be a substantial variance however the design maintains sufficient visibility into the commercial premises and also maintains the retail streetscape appearance of the building.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district:

No adverse effect or impact on the physical or environmental conditions in the neighborhood or district is anticipated. The site to be developed is part of the lot that the Samurai Restaurant is located on. The area to be disturbed is a flat grass area between two buildings with no trees or other mature vegetation. There are no wetlands, watercourses, or steep slopes on or adjacent to

the area to be developed. The infill three-story building, as shown on the rendering, will enhance the Harmon business district area by improving the streetscape.

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the variance:

The alleged difficulty was partially self-created. The existing side yard setback of the Harmon Deli was not self-created. The existing front yard setback of the existing building (Samurai Restaurant) was not self-created.