

VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS MEETING
THURSDAY, JULY 11th, 2024

1. CALL TO ORDER

Chairperson Wagner called the Zoning Board of Appeals Meeting to order on June 11th, 2024 at 8:04

2. OLD BUSINESS

*a) **Vara, Michael, Owner-34 Cleveland Drive**-Located in RA-9 1-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.13 Block 4 Lot 10. Request for a side yard variance and height variance from Village Zoning Code Section 230-40A(1) for an existing detached garage and new dormer.*

PRESENT: Michael Vara, Owner

Chairperson Wagner asked the applicant to introduce himself and provide a brief description as to why he was before the Board. Mr. Vara introduced himself as the owner of the property and stated that he was there to legalize the height of the pre-existing garage on his property. Mr. Vara further explained that the alterations to the garage were made (with proper permits) in 2002 and the garage was issued a certificate of occupancy but he later learned the side yard setback and height went against current zoning regulations and therefore was requesting a height variance. Mr. Vara added that he amended his ZBA application to include a variance request to include the construction of a new, additional dormer on the garage.

The Board asked if the requested variances reflected the new proposed dormer. Mr. Wegner, Assistant Village Engineer, explained that the parameters of the variances being requested would not change as the new dormer would not be increasing the original height of the garage or impacting the side yard setback. Mr. Wegner reiterated that the only change would be “in the bulk” of the existing structure not in the size or height therefore not changing the requests.

The Board asked Mr. Vara the reason for wanting to add another dormer. Mr. Vara responded that a typical 2 car garage would be 24’ft but the existing garage is 21’ft and explained that he would like to add the dormer to create an office space above and with only 1 dormer he would not have the headroom to have an office. Mr. Wegner then raised the point that Mr. Vara could possibly apply for the garage to be an Accessory Dwelling Unit in the future and if so, he would have to come back to the Board for a variance to allow an ADU. While there was some discussion as to what the variance request may be for a future ADU however the Board noted and re-focused on the variance request that was presently before them. Mr. Vara then stated that he did not feel he wanted an ADU at the present time because he believed it would be too small and too tight to create a dwelling unit.

Chairperson Wagner then opened the public hearing. There being no comment from the public, the hearing was closed.

The Board agreed that Mr. Vara's situation was due to an administrative oversight from the engineering department at the time of construction. It was noted that the height of the existing garage and new proposed dormer would not negatively impact anyone's view of the river. The Board also agreed that the pictures submitted by the applicant were helpful and that the topography of the lot lessens the visual impact of the garage. The Board further noted that the new, proposed dormer would not be higher than the existing dormer and agreed that the proposed design and existing garage is attractive and would not have a negative impact on the neighborhood. It was added that no neighbor opposition had been received.

The Board 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.
2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance;
3. The requested variance is substantial but mitigated by the structure's location and the topography which lessens the visual impact;
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 0.2'ft and a height variance of 6'ft for an existing detached garage and new rear dormer. Seconded by Mr. Tuman. All in favor. Roll Call: Mr. Tuman, yes, Mr. Olcott, yes, Chairperson Wagner, yes, Mr. Weber, yes, Mr. Mastronardi, yes.

3. NEW BUSINESS

a) Hertlein, Wesley, Owner-44 Elmore Ave-Located in RA-5 1-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.9 Block 9 Lot 25. Request for a front yard, side yard, and rear yard variance from Village Zoning Code Section 230-33A for an existing primary structure (house) and attached garage.

PRESENT: Wes Hertlein

Mr. Hertlein introduced himself to the Board as the property owner and shared that he was seeking 3 variances to legalize the existing house and attached garage on his property. Mr. Hertlein explained that

he purchased the house in 2008 and was now selling the property. Mr. Hertlein stated he was not aware of the setback issues when he purchased the house in 2008 and learned of the house and garage did not meet zoning requirements when the buyers' and their lawyer called the Village Engineering Department to review the file. Mr. Hertlein shared that the survey the Board was looking at was from 2007 (prior to purchase). Mr. Hertlein explained that the front yard variance request is for the house as the setback should be 15'ft and is 15'ft from one corner but the other corner to the property line is 14.9'ft and therefore is requesting a .1'ft front yard variance. Mr. Hertlein added that the side yard variance request is a little more substantial as the setback should be 8'ft and the garage is 7.3ft and is asking for a .7ft side yard for that. The applicant then stated that the tougher variance is the rear yard which on that lot the zoning requirement is a setback of 25'ft with the house facing Elmore Ave it is impossible to have a rear yard setback of 25'ft and a front yard setback of 15'ft unless one was to turn the house around or knock it down but as it exists there is only a 4'ft setback from the rear property line. Mr. Hertlein discussed the surrounding homes in the neighborhood noting that there are many homes with less than 25'ft rear yard setbacks and garages that abut property lines so it is keeping with the neighborhood.

Mr. Hertlein stated that while he purchased the house with garage as is, he wanted to get the variances for the buyers, who plan to do renovations so that they essentially do not need to knock down the house and rebuild within the setback requirements. The Board asked Mr. Wegner, Assistant Village Engineer if the garage was considered part of the house because it was connected with a breezeway (roof). Mr. Wegner confirmed it was. The Board then noted the setback requirement would only be 5'ft for the garage if it was not attached as it would be considered an accessory structure. Mr. Wegner added the garage was built somewhere between 1952 and 1967 and if the garage had been constructed under the 1931 code that still ruled in 1951, the setback requirements would have been less. The Board asked for clarification on what had a certificate of occupancy. Mr. Wegner explained that the house received a certificate of occupancy and the garage was built later (exact year unclear) without proper documentation so even if granted a variance, the garage would still need to be legalized with a building permit and receive a certificate of occupancy. The Board reviewed the requests, stating the front yard variance was for the house and the side yards and rear yard variances would be for the garage noting the garage is more of the issue.

Chairperson Wagner then opened the public hearing. With no one being heard, the public hearing was closed. Chairperson Wagner then asked for comment and thoughts from the Board.

The Board acknowledged the neighbor letters of support that were submitted with the application and that there was no neighbor/public opposition to the variance requests. Additionally, the Board noted that the house and attached garage had existed as was on the property for 60 years and there had never been a complaint during the applicants' occupancy of the home. The Board further noted that the only reason as to why the variance request for the existing garage would be considered substantial is because it was attached to the main structure.

After discussion on the application, the Board 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, in part as it appears the property has remained the same for approximately 61 years.
2. The benefit sought by the applicant cannot be achieved by a method other than the requested variance;

3. The requested variance **is** substantial in terms of the rear yard 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 not self-created.

MOTION: Mr. Tuman made a motion to grant that a front yard variance of 0.1'ft, a side yard variance of 0.7'ft and a rear yard variance of 20.5'ft for an existing structure (house) and attached garage. Seconded by Mr. Weber. All in Favor. Mr. Tuman, yes, Mr. Weber, yes, Chairperson Wagner, yes, Mr. Olcott, yes, Mr. Mastronardi, yes.

4. APPROVAL OF MINUTES

All meeting minutes were approved with noted edits.

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

Chairperson Wagner made a motion to approve the minutes of May 9th 2024 Seconded by Mr. Mastronardi. All in favor. The motion was carried by a vote of 4-0. (Mr. Olcott abstained due to absence).

Chairperson Wager made a motion to approve the minutes of June 13th 2024 Seconded by Mr. Olcott. All in favor. The motion was carried by a vote of 3-0. (Mr. Weber and Mr. Weber abstained, absent).

5. DISCUSSION

The Board decided to postpone the discussion on the Adoption of *Zoning Board of Appeals Rules and Procedures*.

The Board discussed and agreed to move regularly scheduled Zoning Board of Appeals meetings to the 4th Tuesday of every month at 7:00 p.m. as Thursdays were causing conflict for some Board members. It was determined that the next meeting would be held on Tuesday, September 24, 2024 at 7:00pm.

6. ADJOURNMENT

There being no further business before the Board, the meeting was duly adjourned at 8:32pm.

Respectfully Submitted by,

Stefanie Correale
Secretary to the Zoning Board of Appeals