

**VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS
TUESDAY, OCTOBER 22, 2024**

PRESENT: Jim Tuman, Acting Chairperson
Doug Olcott
Rocco Mastronardi

ABSENT: Christine Wagner, Chairperson
Daron Weber

ALSO PRESENT: Ron Wegner, Assistant Village Engineer, PE

1. CALL TO ORDER at 7:00 p.m.

Acting Chairman Tuman called the October 22, 2024 meeting to order at 7:04p.m.

Mr. Tuman announced that only 3 of the 5 Board members were present therefore any vote that was taken at the meeting had to be unanimous to grant a variance. Applicants were given the choice at any time to request to leave the public hearing open (before closing) and return to a meeting with a full Board if they felt the ruling may not go in their favor.

Mr. Tuman noted there were a lot of items on the agenda and called the first applicant forward.

2. NEW BUSINESS

a) Boulos, Giacinta, Owner-36 Wells Ave.--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 7 Lot 38. Request for a fence variance from Village Zoning Code Section 230-40(H) for an existing fence over 4'ft in height and more than 50% solid fence in a front yard.

PRESENT: Giacinta Boulos, owner

Ms. Boulos introduced herself to the Board and stated that her request pertained to an existing 6-foot fence in her front yard. Ms. Boulos mentioned that she wanted to keep the background of the fence installation brief but noted there was considerable history regarding her ongoing disputes with her neighbors related to boundaries and the ultimate installation of the fence.

During the meeting, Ms. Boulos expressed her concerns about significant tree removal and pruning of vegetation by her neighbors near the property line, which acted as screening. Ms. Boulos shared that she tried planting arborvitae for privacy but later there were questions from her neighbors regarding the plantings on the property line. Ms. Boulos stated her neighbors also asked her to cut down a birch tree near her windows. Ms. Boulos felt that despite stating her preference not to cut the tree, her neighbors persisted in their requests. According to Ms. Boulos, the situation escalated to a point that made her feel she needed a fence.

Ms. Boulos stated she researched the Village code, that she called the Village Engineering Office and received information on fence regulations. Ms. Boulos explained that she believed the front yard line was not clearly defined and the installation in the front yard happened as a misunderstanding of the regulations. Ms. Boulos expressed that her intention was to install the fence without issues related to visibility or safety. The applicant then addressed the concerns raised in the received opposition letters regarding visibility.

The Board inquired with the applicant about the fence company and the company not understanding and verifying the Village fence regulations prior to installation. Ms. Boulos stated that she had shared with the fence company that she had called the Village to check on the rules and stated it was in good faith. The Board then confirmed the applicant that she was looking for a 11.5'ft variance and a proposed alternative is to take down a section of the fence. The Board asked what was behind that particular section of fence in the front yard. Ms. Boulos stated there was a 6'ft section of hedge. Mr. Wegner stated that if one section of fence was removed, the variance request would be reduced to 3.5'ft.

There was then Board discussion of the submitted letters of opposition from neighbors. The Board discussed the concern expressed regarding safety and visibility due to the fence's position. The Board noted that there were no permits required for the fence installation, and the applicant confirmed this. Ms. Boulos was seeking an 11.5-foot variance, with Board discussion indicating that removing one section of the fence could change the needed variance to a 3.5 feet variance, minimizing the request. The Board then reviewed surveys and drawings provided by the applicant and confirmed the fence did not extend to the rear property line.

Mr. Tuman then opened the public hearing.

Mr. Silvio DiSisto and Ms. Christina Walsh of 38 Wells Ave, shared they were upset with Ms. Boulos's description of their interactions and disputes and felt they were misrepresented; however, their concerns were about children playing in the street area and felt the fence and hedges hindered visibility causing safety concerns. Mr. DiSisto referenced his letter that was submitted to the Board about his concerns. Ms. Walsh...

Mr. Wegner clarified for the public the RA- Residential District, from a Zoning perspective, the front yard is considered to be the first 15'ft of property from the street. Mr. Wegner verified for the Board that upon inspection, that the property had been surveyed, the lines had been staked and the fence was located where it was supposed to be relative to the property lines on 36 Wells Ave.

Prior to closing the public hearing, Ms. Boulos was given the option to postpone the vote but the applicant opted not to postpone further discussion and ruling. With that, Mr. Tuman then closed the public hearing and the Board discussed the application.

The Board discussed the height of the fence and visibility concerns from a zoning perspective. The Board members stated they had taken a ride past the property. Mr. Tuman and Mr. Mastronardi discussed and agreed that even if the fence was removed, the 6'ft hedges would remain in regards to visibility when backing out of the driveway. The Board also noted that when backing out of any driveway especially in that area, despite a fence, one always has to be extremely careful. Board members felt the site line issue was slightly overstated since the 6'ft section of hedges would remain but believed if a portion of the fence was removed it would make it more compliant. The applicant confirmed that the fence was 42 inches from the property corner but set back 9.5 feet from the street. Mr. Olcott clearly stated he was not inclined

to vote in favor of granting the fence from a precedent stand point. As he felt the desired outcome could be accomplished by either taking a panel down or a permissible 4ft fence. Especially in consideration that the applicant was willing to take down up to 3.5'ft. The other Board members raised the point that a main consideration would be the challenge of the remaining posts if she had to remove the panels which is a reason they were leaning towards the granting of a 3.5'ft variance to save the hardship of having to remove the posts. Prior to taking a vote Mr. Tuman noted they would be voting on a 3.5ft variance for the removal of one of the panels not for the original request of 11.5'ft.

After deliberation a motion was made.

MOTION: Mr. Mastronardi made a motion to grant a variance for 3.5'ft (in length) of an existing fence over 4'ft in height and more than 50% solid in a front yard. The motion was denied by a vote of 2-1. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes. All opposed. Mr. Olcott, no (Chairperson Wagner, absent; Mr. Weber, absent).

b) Serrell, Robert, Owner-81 Cleveland Dr.—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 9 Lot 40. Request for a side yard variance from Village Zoning Code Section 230-40(A)(1)(b) for an existing shed.

PRESENT: Robert Serrell, owner

Mr. Serrell introduced himself and thanked Mr. Wegner for the time spent with him regarding his variance application for the existing small shed. Mr. Serrell stated they were seeking a variance for an existing small shed in their side yard. Mr. Serrell explained there was an additional shed on the property and did not want to confuse the Board. The applicant stated he was aware he needed to look for an alternate placement for the new, larger shed. Mr. Serrell explained he started to construct a second larger shed on the property due to the discovery of mold issues in his basement, which required mold remediation and needed storage during that process.

Mr. Wegner confirmed that the issue with the small side shed was identified during an inspection related to the new shed and clarified that the structures were separate and that he was working with Mr. Serrell to find a compliant location for the new, larger shed and the request was solely for the small, side shed.

The Board inquired about the building materials of the shed. Mr. Serrell responded that the existing shed was a Home Depot vinyl shed, sitting on a wood block with a concrete pad underneath the front. It was noted that a previous variance granted in 1963 allowed for a whole house setback.

Mr. Tuman asked for clarification regarding the cover letter. Mr. Wegner explained that the letter referenced the original application, which had undergone multiple revisions, and confirmed that they were now only requesting a variance for the small shed.

Mr. Serrell reported that they had engaged architect Mary Ting to design a deck that would support the shed, and he acknowledged they needed to relocate the shed without requiring a variance. He stated they would not keep the large shed.

The Board asked if there was an alternative location for the small shed if the variance were denied, to which Mr. Serrell responded negatively.

Mr. Tuman opened the public hearing.

Diane Leech, 83 Cleveland, expressed support for the small shed but not for the large shed.

Richard King, 38 Elmore, agreed with permitting the small shed but opposed the large shed, although it was acknowledged that the larger shed was not currently in play.

With no one else being heard, the public hearing was closed.

The Board agreed with the neighbor support of the small shed, they were ok with the variance and allowance,

The Board reviewed the Five Factors and determined there would not be a negative impact on the neighborhood however it was discussed and agreed that a shed could be placed in a different location such as under the shed to achieve the sought benefit however given the issue at hand with mold it was reasonable to allow the shed to remain in its present location. The agreed that 1.4ft out of 5 was not a substantial request. Therefore, they determined that:

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 can 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 self-created.

MOTION: Mr. Olcott made a motion to grant a side variance of 1.4ft' for the existing small shed. Seconded by Mr. Mastronardi. The motion was carried by a vote of 3-0. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes, Mr. Olcott, yes (Chairperson Wagner, absent, Mr. Weber, absent).

c) Snilsberg, Thor, Owner- 98 Hastings 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 3 Lot 5. Request for the re-approval of a side yard variance and total side yard variance from Section 230-33A for a proposed extension of a front porch.

PRESENT: Thor Snilsberg
John Power

Mr. Snilsberg introduced himself to the Board and stated that 2 years ago John Power, architect had put this application before the Board and the requested variances were granted for the construction of a proposed porch. Mr. Power explained that Mr. Snilsberg never started the porch project and the variance

expired and therefore they were present to request the same variance for the same project. It was stated there was no change to the original application (same exact design) therefore it was the same request for a side yard variance of 1'ft and total side yard variance of 2.2'ft

The Board stated and agreed the application was simple, noted no changes and that in October 2022 the variances were granted with a vote of 5-0. There were no additional questions from the Board.

Mr. Tuman opened the public hearing with no one heard it was closed.

The Board agreed due to no changes to the design and request, the wording and reasoning were to remain the same on the 5 Factors and resolution:

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 can be achieved by a method other than the requested variance; but would not achieve the desired outcome.
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 reapproval of a side yard variance of 1'ft and total side yard variance of 2.2'ft for the extension of a front porch. Seconded by Mr. Mastronardi. The motion was carried by a vote of 3-0. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes, Mr. Olcott, yes (Chairperson Wagner, absent; Mr. Weber, absent).

d) Croton Yacht Club- Tenant-6 Elliott Way --Located in a WC Waterfront Commercial District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.8 Block 1 Lot 3. Request for the re-approval of a rear yard variance from Village Code Section 230-38 for the alteration of an existing rear deck and a proposed open-air awning on 3 sides of the building.

PRESENT: John Power, architect

Mr. Power was not aware that he would be representing the yacht club but stepped forward to do so as the architect and member of the club. Mr. Power proceeded to review the application and provide the Board with a brief overview of the previous application made by the Croton Yacht Club. Mr. Power stated he had the previously granted resolution in hand and even if the Yacht club was granted a 2-year variance in April of 2022, it still would have expired. The Board asked Mr. Power to walk them through the application. Mr. Power stated the yacht club would be rebuilding an existing deck in a slightly different configuration. The Board confirmed that the rear yard would be on the river. Mr. Power explained that the current deck follows the sea wall that does not run parallel to the structure. And that their intent on rebuilding the deck is to do it in 2-phases. their intention is to do a deck to an awning on three sides although Mr. Power had not been recently updated by the yacht club he stated he was made aware they would be rebuilding a deck this fall. Mr. Power noted the existing deck complied with zoning

less than the new proposed deck. Mr. Power stated there would be a re-orientation of the deck to be a consistent dimension from the club (primary structure) where the future awning would follow the footprint. It was noted it is an odd project in that the rear yard is the river but nothing in the design and request had changed since April 2022 when the original variance for application was granted.

Mr. Tuman opened the public hearing. Hearing no comment, the public hearing was closed. The Board then noted it was another re-approval that was granted in April 2022 with no changes. The Board agreed therefore the 5 Factors would remain the same adding the granting of a 2-year time period for the variance.

It was determined that:

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 is mitigated by the river's location on that side of the property.
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 rear yard variance of 13.5'ft and a variance for a 2-year period. Seconded by Mr. Tuman. The motion was carried by a vote of 3-0. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes, Mr. Olcott, yes (Chairperson Wagner, absent, Mr. Weber, absent).

e) Stokes, Raymond, Owner-9 Eklof Ct.—Located in a RA-25 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.14 Block 6 Lot 30. Request for a side yard variance from Village Zoning Code 230-33A for a proposed addition and alteration for a 3-car garage.

PRESENT: Raymond & Rebecca Stokes, Owners
John Power, Architect

Mr. Stokes introduced himself and his wife, Rebecca Stokes, as the homeowners of the property. Mr. Power, the architect for the proposed project, was present as well. Mr. Stokes stated that they were requesting a 3-foot side yard variance. He shared that he had a passion and hobby for cars and that the existing 2-car attached garage was not big enough to accommodate his growing family and hobby. Mr. Stokes stated that he wanted to expand the width of the garage to comfortably fit a pickup truck, two additional cars, a potential car lift in the center bay, and added space for a mudroom-type area inside the garage. He explained that, based on their property and slope, there was no feasible option to build a detached garage or a type of car shed behind the house because of the slope. Additionally, it would require

installing a driveway on the steep slope. Mr. Stokes stated that it was his understanding that there was no other feasible option for a separate expansion, and therefore, they were present to request a 3-foot side yard variance for the expansion of the existing attached garage.

Mr. Tuman stated that, when looking at the drawings, the variance was a maximum of 3 feet at the front and reduced as it moved back in terms of de-encroachment into the setback area. Mr. Stokes confirmed that this was correct. The Board asked what was presently in the setback area, and Mr. Stokes answered that it was just a side yard. Mr. Olcott asked if it was just the back left corner of the garage that needed the variance. Mr. Tuman asked which neighbor supported 11 Eklof. Marilyn provided verbal support and had no problem. Mr. Stokes walked her through and she understood why, because the garage was attached and there were no issues. He explained that the way they had it currently designed, it certainly would not go above the existing house. If it wasn't attached, the limit would be 15 feet in height. Mr. Tuman stated he had no further questions. Mr. Mastronardi asked if the neighbor's property was a good distance away. Mr. Stokes stated the neighbor was roughly 39 to 40 feet, garage to garage, which butt up against each other, but were still 30 to 40 feet away from the neighbor's garage.

Mr. Tuman opened the public hearing, and with no one being heard, the hearing was closed.

The Board discussed and reviewed the 5 Factors:

The Board agreed the addition to the existing attached garage was the most minimalist way to achieve the expansion and benefit of the 3-car garage. They discussed that due to the topography of the lot a detached garage would not be feasible. The Board felt the design added to the attractiveness of the home and felt the garage was a far enough distance from the neighbor on the garage side that there would be no negative impact there. It was noted while a letter of support was not received from that neighbor, Mr. Stokes reported a verbal conversation was had and verbal support for the project was given.

It was determined that:

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 self-created.

MOTION: Mr. Tuman made a motion to grant a side yard variance of 3 ft for an addition and alteration of an existing attached garage to create a 3-car garage. Seconded by Mr. Olcott. The motion was carried by a vote of 3-0. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes, Mr. Olcott, yes (Chairperson Wagner, absent, Mr. Weber, absent).

f) Heppner, Nancy, Owner-9 Bank St-Located in a RB 2-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.8 Block 3 Lot 70. Request for a rear yard variance from Village Zoning Code Section 1230-40(G)(1) for the continued construction of a rear deck on an existing small lot.

PRESENT: Nancy Heppner, owner

Ms. Heppner introduced herself to the Board, stating that she had appeared before them in April 2024 when she was granted a rear yard variance for the construction of a deck (which had been granted a building permit and was underway) but that there had been an oversight during the original request. Ms. Heppner stated that she was present to add a request for a 1.7-foot rear yard variance. She noted that the best way to see the situation was through the aerial view. Ms. Heppner explained that the side of her yard was uphill, that there was a retaining wall there, and that her roof was approximately at the height of Farrington Road. She added that there were no houses on that section of Farrington Road; however, in her backyard, there were four houses above on Palmer Avenue. In an overabundance of caution, she had approached those neighbors on Palmer Avenue to gain their support. Ms. Heppner stated that her house was tiny, the yard was tiny, so the request was to expand the deck as close as possible to the retaining wall.

The Board clarified that a rear yard variance had been granted in April. Ms. Heppner confirmed and explained that this was for the backyard area adjacent to Farrington Avenue and that she was now requesting a 1.7-foot variance on the Palmer Avenue side due to an oversight during the first application process.

The Board asked Ms. Heppner if the design of the deck had changed since April 2024, when the variance had been granted. She explained that it was due to an omission. Mr. Wegner, the assistant village engineer, explained that the original application showed a 5-foot side yard setback; then building plans with the permit application were received. Mr. Wegner noted that that dimension and setback had not been included on the variance application plans. Ms. Heppner stated that she had expected her contractor to have listened to that, but it was an unfortunate oversight.

Mr. Tuman opened the public hearing. There being no comments from the public, the hearing was closed.

The Board discussed and reviewed the five factors. The Board agreed that while the benefit could have been achieved by a smaller deck, there would have been minimal to no negative impact on the neighborhood and environment from granting the variance. The Board noted that no opposition to the added request had been received

It was determined that:

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 can 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 self-created.

MOTION: Mr. Olcott made a motion to grant a rear yard variance of 1.7 ft for the continued construction of a rear deck on an existing small lot Seconded by Mr. Mastronardi. The motion was carried by a vote of 3-0. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes, Mr. Olcott, yes (Chairperson Wagner, absent, Mr. Weber, absent).

g) Dago-Clark, Dana, Owner-44 Van Wyck 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 19. Request for side yard variance from Village Zoning Code Section 230-40(A)(1)(b) for the construction of a shed closer to the property line.

PRESENT: Ms. Dana-Dago Clark & Mr. Chance Mitchell, owners

Ms. Dago-Clark and Mr. Mitchell introduced themselves as the owners of the property. Ms. Dago-Clark stated that they were looking to continue the construction of a shed on the side of their property to store their handicapped son's tandem bicycle. Ms. Dago-Clark mentioned that the neighbor's driveway ran between their two properties and that he had written a letter of support for the shed, which was to be built bordering his property. It was shared that the shed was on a wooden platform set on blacktop. Ms. Dago-Clark noted that the setback request was for 4.77 feet. The Board asked if there was a handicap ramp on the other side and inquired whether the shed could be placed there instead. The Board also questioned why the shed was against the fence rather than by the house. The applicant stated that they did not want it positioned next to the house because it would block access to the backyard and would be very close to the side door, creating an egress issue that would be difficult to navigate.

Mr. Mitchell stated that the issue had been flagged because the Engineering Department received a call reporting the construction of the shed, although many of the neighbors had expressed their support. He explained that the shed was located there due to driveway access. Mr. Mitchell added that his son's bike was 4 feet wide and 9 feet long. Ms. Dago-Clark mentioned that they also needed to lift their son from his wheelchair to the bike, making accessibility important.

Mr. Tuman opened the public hearing. With no comments from the public, the hearing was closed.

The Board discussed and reviewed the five factors:

The Board agreed there were no other possible locations for the shed in terms of ease of accessibility, considering the location of the driveway. They concurred that the shed, while not particularly aesthetically pleasing, would not change the character of the neighborhood. The Board agreed that given the circumstances, they had no issue with granting the variance for the shed; however, they felt it should not carry with the property because it was being granted for handicap accessibility. It was discussed and agreed that a condition of the variance would be that "due to the substantial nature of the variance and the need for handicap accessibility, the variance granted is conditional on the current property owner. The granted variance does not run with the land and will become null and void upon the change of property

ownership.” The Board requested that it be recorded that there were no letters of objection from neighbors regarding the shed.

It was determined:

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

MOTION: Mr. Mastronardi made a motion to grant a side yard variance of 4.77ft with the condition that, the granted variance does not run with the land and will become null and void at the change of property ownership. Seconded by Mr. Olcott. The motion was carried by a vote of 3-0. All in favor. Roll call: Mr. Mastronardi, yes, Mr. Tuman, yes, Mr. Olcott, yes (Chairperson Wagner, absent. Weber, absent).

3. APPROVAL OF MINUTES

The meeting minutes of July 13th, 2024 were postponed for approval until the return of Chairperson Wagner.

Mr. Tuman made a motion to approve the Minutes of September 24th, 2024, seconded by Mr. Mastronardi.

4. ADJOURNMENT

There being no further business before the Board, the meeting of October 22, 2024 was duly adjourned at 8:29 p.m.

Respectfully Submitted by,

Stefanie Correale
Secretary to the Zoning Board of Appeals