

**VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS
TUESDAY, November 26, 2024**

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

ALSO PRESENT: Ron Wegner, Assistant Village Engineer, PE

1. **CALL TO ORDER** at 7:02p.m.

2. NEW BUSINESS

a) *Schneider, Heike, architect representing Ashley Clemente, owner--163 Old Post Rd North--Located in a RA-40 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 67.16 Block 1 Lot 14. Request for front yard variances and side yard variances from Village Zoning Code Section 230-33A for a proposed 2nd story addition.*

PRESENT: Heike Schneider, architect
Ashley Clemente, owner

Mr. Clemente introduced himself to the Board and stated that he had been in his home located at 163 Old Post Rd South since 2018. Mr. Clemente shared his home was a ranch style (1-story) and that he had aging parents and wanted to create space for them to move in and live comfortably with him. Mr. Clemente explained that was why he wanted to build a 2nd-story addition so that his parents could be on the 1st floor of the house and he would create a bedroom on the 2nd floor. Mr. Clemente stated that the property was an odd lot and therefore several variances had been granted in 1961 when the house was constructed.

Ms. Schneider, architect explained that in the design process they considered the neighborhood as well as energy use and considered the installation of solar panels on the 2nd story roof as well. The goal of project is to increase the livable space of the house.

Chairperson Wagner confirmed it was an existing non-conforming structure.

It was clarified that the existing house was 1300 square feet and a 670 square feet second story addition was being proposed. The Board then wanted to confirm that the addition would be built up over the existing, original footprint of the structure and not out. Ms. Schneider confirmed that was correct.

The Board asked that they were asking for two front yard variances. Ms. Schneider explained that the property had two road frontages and the original had a side yard variance. Mr. Wegner, Assistant Village Engineer explained to the Board that the lot was an odd shape and for clarity, explained to the Board that the applicants were referring to twos setbacks as the front yards because the yards faced out on both

streets. Ms. Schneider then stated that they were calling it 2 front yard setbacks in reference to the previous various. Mr. Wegner explained that there had been a previous side yard variance that was granted based off an old survey that was incorrect and felt it was important to correct that variance and the present Zoning Board meeting. The Board agreed and clarified that was the side yard variance of 4.2 feet. Mr. Wegner said yes. This dimension was by the existing deck. The Board asked Mr. Wegner how off the previous variance was? Mr. Wegner replied that it was off by a couple of feet. It was stated that the recommended correction was not on on the current Zoning Board of Appeals application. Mr. Tuman noted that one of the variances is backed to Finney Farm but the property line was not on the road. Mr. Clemente stated Finney Farm was a private road, maintained by Hudson National Golf Club and they have plantings on it.

Chairperson Wagner then asked if the Board had any additional questions for the applicants. Mr. Tuman asked if the Board would consider Finney Farm a road even though it was a private road. Mr. Wegner replied, yes, even though it is a privately maintained road it would still be considered a road.

Chairperson Wagner opened the public hearing, and with no one being heard, the hearing was closed.

The Board then discussed and deliberated on 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 agreed the addition is not changing the footprint of the house, it would be an improvement and 4 neighboring properties signed letters of support.

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

The Board agreed the only way to gain the square footage needed to create the desired space for the applicants could not be achieved without a variance. Building out and/or up both required a variance.

3. The requested variance is substantial; but in line with what already exists on the lot.
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 front yard variance of 11ft (Old Post Road N), a front yard variance of 24.2ft (Finney Farm Rd), a side yard variance of 4.2ft for a 2nd story addition, and a side yard variance of 16.2ft to correct a previous variance. Seconded by Mr. Olcott. The motion was carried by a vote of 5-0. All in favor. Roll call: Mr. Tuman, yes, Mr. Olcott, yest, Chairperson Wagner, yes, Mr. Mastronardi, yes, Mr. Weber, yes.

b) Oppenheim, Daniel & Lee, Shelley, owners-17 Mount Green Rd.---located in a RA-40 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 67.20 Block 1 Lot 4 (and 5). Request for a height variance from Village Zoning Code Section 230-40A(1)(a) for an existing 1 1/2-story garage.

PRESENT: Shelley Lee, owner
Daniel Oppenheim, owner

Mr. Oppenheim and Ms. Lee introduced themselves to the Board and stated they had been living in their home since 2000. The applicants stated their home was a beautiful home that was built in 1927 and had an existing garage (at the time of purchase) however, at that time, there was nothing in their building department file documenting the garage. Mr. Oppenheim stated that they would like to renovate the existing garage but to do so they need to legalize it. The applicants stated they wanted to ensure it would be “recognized” in the documents but that they had no idea of when it was built. The applicant speculated it could have been built with the house because it was “exactly the same style” or thought it could have been done in the 1990’s as the previous owners had done major renovations to the property but there was no building permit or certificate of occupancy on record. Mr. Oppenheim stated that it was unclear if the garage should be described as 2-stories or 1 ½ stories. Mr. Oppenheim explained that on the application he indicated the garage was 1 ½ floors because that was what was on the survey. The applicant stated that they would like to renovate the garage but that it is 7.5 taller than what was permissible in the Zoning regulation therefore they were requesting a height variance. Mr. Oppenheim stated that the garage was barely visible from street and had been on the property for at least 25 years. Mr. Oppenheim added that they would like to keep the garage “in-style” with the existing house

Chairperson Wagner clarified that the variance request was solely for legalizing the height of the garage and that the building permit and certificate of occupancy were separate issues and would come after the granting of a variance. Ms. Lee then shared that the engineering department shared the garage needed legalizing after reaching out to the Engineering Department when they inquired about renovating the garage.

Mr. Wegner confirmed they would need to apply for a building permit after the variance to legalize the structure. Chairperson Wagner asked Mr. Wegner if there was an issue with the structure being closer to the street than the primary residence. Mr. Oppenheim shared the garage is further away from the street and Mr. Wegner confirmed that was correct. The Board inquired how a structure of that size could be built without permits. Mr. Wegner replied that it’s setback and on a road that is not heavily travelled. Mr. Olcott shared he had driven by the property and the house and garage are up on a steep slope and shared it was barely visible from the street. Mr. Wegner stated unfortunately it had not been picked up on a previous record search.

Ms. Lee stated that while the existing garage was not constructed at the time of the house in 1927, that the garage’s design was very much in style with the house.

Chairperson Wagner stated that one letter of communication was submitted by the resident at 26 Mount Green Road, Paula Chabrowe who raised two questions: Is it true that it’s not able to be seen from Mt. Green Road?” and “Is it in compliance with building standards as was health, safety, and fire codes?”

Chairperson Wagner, directed the Board to begin with answering the second question because it had just been discussed. Chairperson Wagner reiterated that building and safety standards would come into play when the building permit process which would come after the Zoning Board and variance process. Mr. Wegner confirmed and added the as raised in the letter, condition assessments of parking garages are not

relevant and would not apply to this application as that section of zoning code are more in-line with public parking garages. Mr. Wegner added that the compliance for building standards would be addressed during the permitting process and inspections that follow.

Chairperson Wagner, in regards to the first question about the visibility of the garage asked if it could be seen from both directions from the road. The applicants attested to the fact you cannot see much of it from the street. Mr. Wegner stated the garage was over 300 feet from Mt Green Road. Mr. Oppenheim stated that in his opinion there is nothing there that is out of the ordinary, in line with the 1927 style of the home.

Mr. Olcott confirmed that it was difficult to see the house from the street let alone the garage. Mr. Olcott stated the driveway is very narrow and steep that leads up a steep hill the house is set back and is covered by woods. Mr. Tuman asked that once up the hill, the property is then plateaued. Mr. Olcott confirmed that was correct.

With no addition questions from the Board, Chairperson Wagner opened the public hearing, and with no one being heard from the audience, the hearing was closed.

Mr. Tuman's stated his one comment was if it is granted it does not allow any further encroachment on the height noting it should be clear that the variance is for the existing structure and not for a future proposed expansion of the garage. It was noted the variance is for what is existed. Mr. Wegner explained that if an application were to come in for an expansion and if they wanted to go wider with a peak and dormers or if it would go up above 15'ft, the homeowners would have to return. If very few can see it and does not have

The Board then discussed and determined 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 agreed it was on the property for over 25 years and not visible from the street.

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

The Board stated the garage already exists.

3. The requested variance is substantial;

The Board agreed going up 7.5 feet was 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.

Garage was on the property before Mr. Oppenheim and Ms. Shelley moved in.

MOTION: Mr. Olcott made a motion to grant that a height variance of 7.5ft for the legalization of an existing garage as currently constructed a front yard variance of 11ft (Old Post Road N), Seconded by Mr. Mastronardi. The motion was carried by a vote of 5-0. All in favor. Roll call: Mr. Olcott, yes, Chairperson Wagner, Mr. Tuman, yes, yes, Mr. Weber, yes

- c) *Natarajan, Velmani, Owner-1 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 8 Lot 23. 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: John Power, Architect
Velmani Natarajan, Owner

Mr. Power introduced himself to the Board as the architect for the addition located at 1 Wells Ave. Mr. Power stated that him and his client, Mr. Velmani Natarajan were requesting a 10'ft variance for a 6-foot solid fence in the front yard setback. Mr. Power stated the fence was something he was not aware of when it was occurring and several things were happening with the property at the same time. Mr. Power explained that the neighboring property was the Maple Commons development

Mr. Power stated that one of the finishing items for the new Maple Common's development that was under construction for last several years was to install a 6-foot solid fence to separate it from the properties on Wells Avenue. Mr. Power explained the fence installation by the development was done with an agreement with the neighboring Wells Avenue property owners. Mr. Wegner, Assistant Village Engineer could better speak on the easement agreement that allowed the properties on Wells Avenue to gain unofficial additional square footage. Mr. Wegner stated that he was not sure of the specifications of the easement agreement but stated he was aware of negotiations and the location of the fence was part of the negotiations and the landscaping was a part of the discussions as well. Mr. Wegner stated the fence was the solution they came up with to create screening between Maple Commons and the Wells Avenue properties. Mr. Power further explained the fence is off the backyards of the Wells Avenue houses but more on the Maple Commons properties so the Wells Avenue properties gained square footage on their properties but as Mr. Wegner described it as "in an informal sense."

The Board asked for clarification as to who the agreement was between. Mr. Wegner explained the agreement was between Maple Commons and the Wells Avenue property owners and the Village was not a part of that agreement.

Chairperson Wagner asked how those 2 parties agreed to wave the zoning requirements. Mr. Wegner stated that the fence was in a zoning non-complaint location. Mr. Power stated he wanted to point out the progression of events that led to the fence installation at 1 Wells Avenue. Mr. Power began by stating how unusual it was that these houses on Wells Ave received roughly 20 extra feet to their backyards and when it came to his client's property (of which was a corner lot), where their existing fence was before Maple Commons existed and also before his clients decided to do an addition to their home. Mr. Power added that his clients' yard was incredibly small and only had a side yard between them and the neighboring property of 9.39 feet and had two front yards with it being a corner lot. They had a rear yard that was about a third less than what could be currently seen enclosed with the new fence. Mr. Power stated he got involved with the design of the addition that is on the left side of the property. Mr. Power explained the house was across the street from the commercial Wells Fargo and Coffee Matters.

Mr. Power then described the fence his clients installed in conjunction with the Maple Commons fence. Mr. Power explained that the Maple Commons installed ran along and ended slightly further than 1 Wells Ave and 3 Wells Ave. Mr. Power then described the addition he designed for his client and house the front of the house originally built was not the front of the house anymore. Mr. Power added that the fence was installed very quickly and that he learned it was installed (unaware) to him when he was driving up Maple Street one day. Mr. Power stated that was when he called Mr. Wegner in the Engineering office because he knew it was in violation of Village zoning/ fence

regulation. Mr. Power stated that unfortunately, when one looks up that hill the fence appears striking because both his client's fence and Maple Commons' fences are very bare because no plantings grew, so the fences stand out.

Mr. Power stated they were there to request a 10'ft variance to allow the existing 6' foot solid fence in the front yard. It was noted that corner lots in regards to fences are more complicated because the lots have a rear yard in essence, but they are exposed to a street making it a front yard as well.

Mr. Power added that the Maple Commons fence ended in the front yard setback where Mr. Natarajan continued it. Mr. Power then noted that the last photograph sheet showed other similar properties with solid 6'ft fences.

Chairperson Wagner explained the fence issue arose about 5-6 years ago and that was when regulations came up. The Board shared that they look closely at fences to avoid walls of fences in the Village but also consider corner lots as it is an important factor.

The Board asked what the length (run of) the fence was. Mr. Powers answered stating it was about 70ft long. The Board felt that was a big number to keep in mind.

Chairperson Wagner felt there was much more to be seen and to understand such as where the fences line up and recommended to postpone the application and conduct a site visit. The Board agreed. The public hearing was not opened and the application would be held over to the next scheduled Zoning Board Meeting.

3. BOARD DISCUSSION

a) Review of Final Resolution for 36 Wells Ave.

The secretary to the Zoning Board requested the members present at the October meeting quickly review the 5 Factors for the denial of the fence at 36 Wells Ave for the record.

Mr. Tuman, Mr. Olcott and Mr. Mastronardi reviewed the 5 factors regarding the denial of 36 Wells Ave. to accurately clarify the determination of the denial of the variance request.

1. No undesirable change in the character of the neighborhood nor detriment to nearby properties will be produced by the granting of the variance.

While it was noted that there was a difference in perspective regarding the fence, opposition was noted that the fence law was created for a reason and that reason being to keep high, solid fences from everyone's front yard and having a negative impact on neighborhoods.

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

The Board stated, yes it could be achieved by other means including a lower fence.

3. The requested variance is substantial.

The Board clarified that they determined it was substantial because while a fence in the front yard as per regulation should be no greater than 4 feet in height and less than 50% solid, therefore the request was to allow a 6-foot solid fence in the front yard, therefore it was a substantial request.

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

This was considered straight forward: no, there would not be an adverse effect on the physical environmental conditions.

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

All 3 members agreed it was a self-created difficulty.

Determination: 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 was denied.

The Board then discussed the idea and suggested the Engineering/Building Department assemble a welcome type packet for new homeowners in the Village that would contain pertinent information about property zoning and maintenance regulations. All Board members agreed that information regarding fences, sheds, sidewalks and trees, leaf blower usage and metal/sanitation pick up should be included. Mr. Wegner noted he was writing it down. The Board also discussed and agreed to add to the end of

b) *Adopting Zoning Board of Appeals Rules and Procedures*

Chairperson Wagner stated that Ms. Correale had put together a draft version of Zoning Board of Appeals Rules & Procedures based off of the Rules & Procedures adopted by the Village Planning Board. Chairperson Wagner stated she thought it was good but recommended taking out item 5B as noted on her marked draft. Another suggestion made was to remove "The Zoning Board must complete the review and determination of Five Factors," noting that procedurally the Board already does so. The Board also discussed and agreed that a statement at the end of item 7C such as "7C of draft minutes shall be approved by motion at a subsequent meeting of the ZBA." The Board agreed that because if they were going to talk about the minutes, they might as well include that procedural step that the minutes are always voted on.

Chairperson Wagner asked if the Board have any additional thoughts. The time limitation on public speaking was brought up. Chairperson Wagner stated that they agreed placing a 10-minute limitation for a public member to speak was set item 6F.

The Board confirmed they were ready to vote and a motion was made.

MOTION: Chairperson Wagner made a motion to adopt the revised *Zoning Board of Appeals Rules and Procedure*. Seconded by Mr. Tuman. The motion was carried by a vote of 5-0. All in favor. Roll call: Chairperson Wagner, Mr. Tuman, yes, Mr. Mastronardi, yes, Mr. Weber, yes, Mr. Olcott, yes.

c) Composition of the Zoning Board of Appeals

The Board discussed possibly having a backup member (absentee alternate member) so there would be another person as backup in situations of absences or when a member may have to recuse themselves from an application. It was noted it did not need to be included in the adopted Rules and Procedures.

d) December meeting date change due to holiday

The Board discussed their availability for an alternate December meeting because the scheduled meeting would be on a holiday. It was determined based on lack of member availability, a single, standalone meeting in early January could be held if necessary for a time-sensitive, pressing application is filed but that they would plan to cancel the December 24th 2024 meeting and reconvene at the regularly scheduled January 28th 2025 members are not around Christmas week.

3. APPROVAL OF MEETING MINUTES

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

Mr. Tuman made a motion to approve the October 22, 2024 meeting minutes. Seconded by Mr. Mastronardi. The motion was carried by a vote of 4-0. All in Favor. (Chairperson Wagner, abstained).

4. ADJOURNMENT

The meeting was duly adjourned at 8:10pm

Respectfully Submitted by,

Stefanie Correale
Secretary to the Zoning Board of Appeals