

**VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS
TUESDAY, March 25, 2025**

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

ALSO PRESENT: Ron Wegner, Assistant Village Engineer, PE
Maria Slippen, Village Board Liaison

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

2. NEW BUSINESS

a) Kirschner, Rachel, Owner—20 Mount Airy Road South---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 1 Lot 58. Request for a fence variance from Village Zoning Code Section 230-40(H) for portions of an existing solid fence over 6’ft in height in a rear yard.

PRESENT: Rachel Kirschner, owner

Ms. Kirschner introduced herself to the Board and shared that she had read all the Village fence regulations and had purchased a solid 6’ fence, which she installed where the top was slotted and open air. The applicant explained that due to the steep slope in her yard, when it came time for installation, the fence installers explained the already delivered fence could only be installed in a step style. Ms. Kirschner proceeded with the installation; however, it caused certain 6’ sections of fence to be taller than 6’ as it was off the ground. Ms. Kirschner explained that after installation, her neighbor was upset about the raised height of the fence, so she went to the Building Department to see if everything checked out. At that point, she learned she would need to apply for a variance for the 6’ fence even though it was in her rear yard. However, the applicant further explained the neighbor had installed a 6’ fence against hers.

The Board asked if the fence impeded anyone's view as far as she knew. Ms. Kirschner responded that the fence did not. The Board then asked how much of the fence was over 6’. The applicant stated that about 35–50% of each panel could be over or under 6’, depending on where on the slope the panel was installed. The applicant explained that she had cut some portions of the panels and removed some slots in

other areas so the step wasn't extreme. The applicant clarified that the fence surrounded the side and rear yard (not the front yard). The corner where the retaining wall was the most pronounced was also the area where the grade was the most severe. The Board asked if the code authorized such a situation. Mr. Wegner, Village Engineer, stated that the code only restricted fences in side and rear yards to 6'. The Board asked for more information on the neighbor's complaint and who it was made to. Ms. Kirschner stated the neighbor made the complaint to the installer, who tried to give the neighbor Ms. Kirschner's phone number; however, she never received a call. The neighbor then installed their own fence abutting hers. Chairperson Wagner asked if the reason she applied to the Board for a variance was out of an abundance of caution. The applicant replied, "yes."

Chairperson Wagner opened the public hearing. No one came forward to speak. Chairperson Wagner then asked the Board if they felt they had enough information to make a ruling. The Board agreed they did. With that, Chairperson Wagner closed the public hearing.

The Board then discussed and reviewed the 5 Factors:

The Board stated that in most cases they adhered strictly to fence regulations and often voted against fences; however, they felt in this case, with it being in the rear yard, open on top, and due to the steep topography of the lot, they felt comfortable granting the variance. It was also noted by the Board that they felt the applicant had put forth her best effort in remediating and lessening the issue, as well as being sensitive to the neighbor, but again was limited due to the steep slope of the lot. It was further noted it was an attractive-looking fence and did not negatively impact the neighborhood. The Board agreed Ms. Kirschner had done her best to meet the spirit of the

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 require alterations and the existing fence is largely with the spirit of the code.
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. Weber made a motion to grant a fence variance of up to 1 ft for portions of an existing solid fence over 6'ft in height in a rear yard. Seconded by Mr. Mastronardi. The motion was carried by a

vote of 5-0. All in favor. Roll call: Mr. Weber, yes, Mr. Mastronardi, yes, Mr. Olcott, yes, Chairperson Wagner, yes, Mr. Tuman, yes.

b) Perdomo-Cohen, Laura, Owner-189 Cleveland Drive—Located in a RA-25 Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 68.17 Block 3 Lot 39. Request for a front yard variance from Village Zoning Code Section 230-33A for a proposed front porch.

PRESENT: Michael Bevivino, Architect
Laura & Evan Perdomo-Cohen, Owners

The architect for the applicants, Mr. Bevivino, introduced himself to the Board. Mr. Bevivino stated his clients were seeking an area variance for a front yard setback specific to the open-air porch as part of a larger project which included a 2nd-story addition. Mr. Bevivino explained that because the lot was “radiused,” they wished to seek the variance for a very small sliver of the front yard to allow for a usable front porch. Mr. Bevivino went through the five factors, stating that he did not believe it created an undesirable change to the neighborhood and referenced the photo of 190 Cleveland Drive, which also had an open-air porch directly across the street. Mr. Bevivino stated that it would have been difficult to achieve the desired function and usable space of the porch without the variance.

The applicant stated that the request was not substantial, as the total area requiring the variance was only 10.8 square feet, with the requested variance being for 1 foot 4 inches to allow for the 27.5’ x 6’ porch in one corner of the property. Mr. Bevivino further explained that the existing house sat close to the front property line, further limiting other options for the construction of the porch. It was felt that the porch requiring the variance would not have had a negative impact on the surrounding area, as the 2nd-story addition and improvements were occurring within the boundaries of the property.

Ms. Perdomo-Cohen shared with the Board that she had a form letter of support signed by several of the neighbors, which had not been previously provided to the Board. The neighbor support was acknowledged, and Chairperson Wagner asked the applicant to send a copy in to have on record. The applicant agreed.

Chairperson Wagner then opened the public hearing. With no one being heard from the public and the Board agreeing they had enough information to make a decision, the public hearing was closed.

The Board then discussed the application and 5 Factors.

The Board conferred they were okay with the 10.8-square-foot corner (a minimal request) that required the variance. It was agreed there were no other feasible options in terms of creating a usable front porch other than the proposed design. It was further noted that the front property line was not straight, hence the request for only the one corner, as well as the property line being right up against the road. Neighbor support was again acknowledged.

The Board determined 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 can be achieved by a method other than the requested variance, but with less usability.
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 front yard variance of 1 ft 4 inches for an addition of a front porch. Seconded by Mr. Olcott. The motion was carried by a vote of 5-0. All in favor. Roll call: Mr. Tuman, yes, Mr. Olcott, yes, Chairperson Wagner, yes Mr. Mastronardi, yes, Mr. Weber, yes.

c) Franggi, Adriana, Owner--339 Grand Street-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 3 Lot 8. Request for a rear yard variance and side yard variance from Village Zoning Code Section 230-40G for the enclosure of an attached pavilion on an existing small lot.

PRESENT: Adriana & Julio Franggi, owners

Ms. Franggi introduced herself and her husband to the Board. Ms. Franggi stated that they were returning to the Board for a rear and side yard variance for the enclosure of an existing attached pavilion. Ms. Franggi stated that they had recently been granted the same requested side and rear yard variances for the attached pavilion on January 28, 2025. Ms. Franggi explained that they would now have liked to be able to use or convert the pavilion into a more usable, 3-season room.

It was clarified by the Board that the footprint of the pavilion was not increasing, but because it had been granted a variance and would be altered (installation of windows to enclose), it would require the variances to be granted again. Mr. Wegner, Assistant Village Engineer, added that because the enclosure was increasing its non-conformity, the variances would be required.

The Board asked if the enclosure would have caused a change in status from a building code perspective. Mr. Wegner said it would have been comparable to that of a gazebo converting into a sunroom. Mr. Wegner stated it would not have been a heated room, so it would have been considered a sunroom, not a finished livable space, and not increasing the finished square footage of the home.

The Board confirmed the pavilion had already been constructed. The Board reviewed the topography and layout of the lot, noting the garage was on the other side of the house. The Board discussed the neighbor who had been present at the January meeting and had objected, and they questioned what the objection had been, as that neighbor was located furthest from the structure.

The applicant stated that she wasn't quite sure what the original objection had been and that she had tried to reach out in regard to the current request but had been unable to reach her. It was noted that the current application had been legally noticed as well. The Board then discussed the neighboring driveway closest to the pavilion and whether there had been correspondence with them. The applicant stated that they had had a conversation, but there had not been a new letter, and stated that they had admired the work being done.

The applicant explained that behind their home was land which was approximately a 45-degree hill, sloping up. The Board wanted to confirm there were no houses in the rear of their yard. The Board discussed that the enclosure would add to and increase the appearance of the bulk of the existing structure. The applicant explained that they would have liked to make it look as much like a part of the house as possible.

The Board asked the applicant to remind them why the pavilion had been built so close to the property line. Ms. Franggi stated that it had been due to the lot being an existing small lot and because of the location of the septic, so there had been no other feasible location for the pavilion.

Chairperson Wagner opened the public hearing. No one from the public being heard, and the Board having had adequate information for a ruling, the public hearing was closed.

The Board then discussed and reviewed the 5 Factors:

The Board felt that they had not been concerned about the enclosure of the pavilion in terms of aesthetics or having a negative impact on the neighborhood or environmental conditions. It was noted that with the exception of the immediate neighbor whose driveway abutted their yard (who verbally supported the home improvements), the yard had been mostly surrounded by a wooded area.

It was also noted that the enclosure would have decreased sound from the use of the pavilion and would not have impeded on any views. The Board further agreed that there had been no other possible way to enclose the pavilion and achieve the desired outcome by any other means than the one proposed.

The 5 Factors were 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. Olcott made a motion to grant a side yard variance of 11 ft and a rear yard variance of 15 ft for an attached pavilion on an existing small lot. Seconded by Chairperson Wagner. The motion was carried by a vote of 5-0. All in favor. Roll call: Mr. Olcott, yes, Chairperson Wagner, yes, Mr. Tuman, yes, Mr. Mastronardi, yes, Mr. Weber, yes.

3. APPROVAL OF MINUTES

Chairperson Wagner made a motion to approve the minutes of the January 28, 2025 meeting. Seconded by Mr. Mastronardi. All in favor. The motion was carried by a vote of 4-0 (Mr. Tuman, abstained).

4. ADJOURNMENT

There being no further business before the Board, the meeting was duly adjourned at 7:36 pm.

Respectfully Submitted by,
Stefanie Correale
Secretary to the Zoning Board of Appeals