

**VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS
TUESDAY, APRIL 22, 2025**

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

ALSO PRESENT: Ron Wegner, Assistant Village Engineer, PE

1. CALL TO ORDER

Chairperson Wagner called the meeting of April 22, 2025 to order at 7:04

2. OLD BUSINESS

a) 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 in a front yard.

PRESENT: Velmani Natarajan, Owner
John Power, Architect

The Board continued its discussion regarding the fence variance request initially reviewed at a prior meeting.

Mr. Power presented updated information, including a recent survey confirming that the existing fence was located within the 7.5-foot inside the front yard setback. He explained that the cost to move the fence was approaching the cost of its original installation. While inquiries had been made about moving the fence, an alternative that he had not been previously presented was the use of plantings to soften the visual impact. Mr. Power noted the challenges presented by the property being a corner lot.

In his presentation, Mr. Power shared images showing the conditions prior to the development of Maple Commons, which included a substantial vegetative buffer that had since been lost due to its development. He emphasized that the current posting of the fence came only after discovering the high cost of relocation and considered landscaping as a less disruptive mitigation option.

Mr. Power pointed out that, in his opinion while there are fence regulations, fence permits are not required which often leads to property owners interpreting the code independently.

Chairperson Wagner clarified that the current regulation allows for a 4-foot fence with 50% transparency. However, if the existing 6-foot fence were to be moved back 7.5 feet, a variance would not be required. Mr. Olcott asked if the fence height could be cut down to 4 feet to comply.

Mr. Velmani expressed concerns to the Board about privacy, especially at night, noting that without a solid fence, there would be zero screening from across the street (commercial property). From his point of view, a 4-foot fence offered little to no visual protection. Mr. Power stated that the intent was to leave the fence as is, and instead address the visual impact with plantings.

Mr. Powers commented that due to the height of the property a 4-foot fence would not sufficiently obscure views. Chairperson Wagner noted during the site visit that the current 6-foot fence effectively blocked views of the nearby shopping plaza. Mr. Mastronardi added that if residents can see out, others can see in, highlighting the need for sufficient screening.

Chairperson Wagner pointed out that while the fence enclosed the property effectively, moving it back would not eliminate its massiveness or change its appearance significantly. If anything, due to the slope of the land, the fence might appear taller. It was also noted that the area in front of the basement provides just over 5 feet of space.

Mr. Tuman inquired about the portion of the fence to the left of the property line that runs parallel to Maple Street, asking if it had been installed by the applicant. Mr. Velmani explained that Maple Commons had paid \$1,500 for him to complete the final three panels, as they had run out during installation. Mr. Tuman commented that the fence was massive and stated he had difficulty voting in favor of it, believing there were other options and that compelling arguments had been made for mitigation.

Chairperson Wagner reminded the Board that the public hearing had remained open to allow further input. She asked if the Board felt prepared to make a decision. The Board confirmed readiness, and Chairperson Wagner officially closed the public hearing.

Mr. Velmani acknowledged the fence's size and admitted to a misunderstanding of the regulations. However, he argued that moving the fence back would not change its overall appearance or perceived mass and would impose a significant financial burden. Mr. Power added that the choice was between moving the fence back or softening its appearance through landscaping, and that its visual impact would remain unchanged in either case.

The Board noted that while relocating the fence would place it further from the street, it would not make it appear less imposing.

Mr. Wegner stated that fences are not allowed in the front-yard setback; however, if moved outside the setback, no variance would be required.

Mr. Olcott reiterated that he did not favor the fence but agreed that relocating it would be a hardship and would not achieve the intended reduction in visual impact.

Mr. Tuman asked whether the portion of the fence in question was outside of a residential zone, which would mean the regulation might not apply.

Several Board members expressed an inclination to grant the variance, provided a condition was added requiring plantings to soften the visual impact. They also expressed hesitation due to concerns about setting a precedent, but acknowledged the unique context of the property.

Mr. Mastronardi addressed the concern, noting that this situation coincided with the Maple Commons project, which significantly altered the property by clearing trees and removing privacy buffers.

The Board found the following:

The existing fence, while noncompliant due to its location within the front yard setback, provides necessary privacy and screening given the loss of vegetative buffer and the unique characteristics of the corner lot. Relocating the fence would present a financial hardship for the property owner and would not substantially reduce its visual impact or improve neighborhood aesthetics. A requirement for plantings, such as a hedge or evergreen screen reaching 6–8 feet in height at maturity, would effectively mitigate the fence's appearance and serve the intent of the regulation.

Mr. Velmani expressed appreciation for the Board's consideration and apologized for any confusion or stress caused during the process.

The Board then determined the 5 Factors:

1. An undesirable change in the character of the neighborhood and/or detriment to nearby properties will be produced by the granting of the variance; however, a structure with similar impact can be done as of right without requiring mitigation to visual impact.
2. The benefit sought by the applicant can be achieved by a method other than the requested variance; with the same caveat.
3. The requested variance is substantial;
1. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
2. The difficulty alleged by the applicant was self-created.

MOTION: Mr. Olcott made a motion to grant a fence variance for an existing fence over 4'ft in height and more than 50% solid in a front yard subject to the special that 6 ft to 8ft plantings are required obscuring at least 50% of the fence facing Maple Street. Seconded by: Mr. Mastronardi. The motion was carried by a vote of 3-2. Roll call: Mr. Olcott, yes, Mr. Mastronardi, yes, Mr. Weber, yes, Chairperson Wagner, no, Mr. Tuman, no.

3. NEW BUSINESS

a) Rob Luntz, Architect, representative for Rachel Bernstein, Owner—16 Lexington Drive- Located in a RA9 1-Family Residential District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.09 Block 7 Lot 29. Request for a variance from Village Zoning Code Sections 230-40 (A)(B) and 230-33A for an accessory structure less than 5 ft from a property line, nearer to the street than the primary structure, and in a front yard setback to replace an existing detached garage with a new, 2-car garage.

PRESENT: Rob Luntz, Architect
Alan Milton, Owner

Robert Luntz, architect, and representative for his clients Alan Milton and Rachel Bernstein. Mr. Luntz and Mr. Milton appeared before the Board regarding the property located at 16 Lexington Drive. The applicants proposed to replace an existing one-car garage with a new, detached, two-car garage. The existing garage currently projected slightly over the property line onto Village property, by approximately 1.7 feet on one side and 1.8 feet on the other.

Mr. Luntz explained that the proposed project would correct this issue by relocating the new garage entirely within the property boundaries. The suggestion to address the encroachment came from the Village Engineering Department, who advised moving the garage back to the property line rather than seeking an agreement with the Village.

In addition to addressing the encroachment, the new garage would provide two off-street parking spaces, which is consistent with current zoning requirements. It was noted that the existing structure provides only one.

The applicants requested were requesting to locate the new garage in the front yard, consistent with the location of the current one-car garage, to allow a zero-foot front yard setback where a five-foot setback is otherwise required and to allow for a detached accessory structure (garage) to be located closer to the street than the primary structure.

Mr. Luntz noted that many homes along Lexington Drive, especially those on the uphill side of the street, have garages built into the hillside in a similar fashion. He provided photographs of nearby properties with similar topography and construction.

He further explained that pushing the garage further back into the property would not be practical, as it would require more extensive excavation into the hillside, leading to increased construction complexity, the need for taller retaining walls, and waterproofing challenges. The rear portion of the proposed garage would already be partially underground due to the slope.

Mr. Luntz stated that the design of the new garage would be consistent with the character of the home and neighborhood and that retaining walls would be made of concrete, and the exterior would be finished with siding to match the primary structure.

Mr. Luntz reviewed the 5 Factors from the application. He stated that they believed the character of the neighborhood would remain unchanged as there is an existing garage in the same location, and similar garage structures exist nearby. There was no practical alternative that would provide two off-street parking spaces without significant disturbance to the slope. Mr. Luntz stated that in their opinion, the variance being requested was minor in scale (a five-foot setback across a 22-foot-wide garage) and that environmental impact on the neighborhood was considered minimal. The difficulty was not self-created, as the condition was pre-existing and the proposed project aimed to remedy it.

The Board was asked by Chairperson Wagner if they had any additional questions for the applicant. With none, Chairperson Wagner opened the public hearing. With no one being heard, the public hearing was closed.

The Board then discussed the condition of the existing garage, noting it was built in the 1960s and was no longer in good condition. Members acknowledged that similar garage structures exist throughout the Village and that, when constructed properly, they contribute positively to the architectural character of the neighborhood.

The Board also noted that multiple letters and emails in support of the application had been received from neighboring property owners. The Board found that the application met the required criteria for variance approval. The project was determined to have no undesirable change to the character of the neighborhood, could not be achieved by alternative methods, was not substantial in impact, and would not adversely affect the environment or community. Additionally, the hardship was not self-created.

The Board 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.
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 not self-created.

MOTION: Mr. Tuman made a motion to grant a front yard variance of 25 ft for an accessory structure in a front yard setback less than 5 ft from a property line and nearer to the street than the primary structure to replace an existing detached garage, with a new, detached 2-car garage. 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. Tuman, yes. Mr. Mastronardi, yes, Mr. Weber, yes.

b) 368 S Riverside LLC, Owner-368 South Riverside Ave-Located in a C2-General Commercial District and Harmon/South Riverside Gateway Overlay District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 79.13 Block 1 Lot 71. Request for a variance from Village Zoning Code Section 230-20.3B (3)(a)[2] to have a dwelling unit on a second floor but in an existing detached building instead of the primary building, for side and rear yard variances from Section 230-35 for a proposed 2nd story addition on the existing

detached building, and for a variance request for a 2-year period to commence work from Section 230-164(E).

PRESENT: Joe Lippolis, 368 Riverside LLC-owner

Chairperson Wagner called forward the final application of the evening. It was noted that some members of the Board were present during a related variance hearing in 2021, but the majority were new to the application.

Mr. Lippolis, owner of 368 Riverside LLC, presented the application. He explained that he had managed the subject property for approximately 15 years prior to purchasing it in 2001. During that time, a converted garage on the property had been illegally used as a residence. In 2021, the structure was legalized as a cottage, which required the granting of two variances: a side yard variance and a rear yard variance.

Mr. Lippolis stated the cottage was approximately 475–480 square feet in size adding that it recently required structural work due to termite damage and has an open building permit for the repairs. Mr. Lippolis shared that while addressing the damage, the applicant began exploring the possibility of increasing the square footage by adding a second story.

The applicant clarified that if the second-story addition was approved, the current roof would be removed and replaced as part of the construction. While the roof may appear new from the outside, he confirmed that it is the original roof and not a new addition. The exterior walls had to be replaced due to the damage, but the overall footprint remained unchanged.

In the prior variance, the Board allowed residential use at the rear of the commercial structure without requiring a physical connection between the two structures, which would normally be required. The applicant was seeking to maintain that arrangement even with the proposed second story.

Mr. Lippolis explained the proposed addition to the structure would make it approximately 28 feet tall, noting it was well below the 35-foot height limit. The interior height would be just over 9 feet per floor, and the design would maintain the character of the area. The total living area after the addition would be about 950 square feet, creating a more functional one-bedroom unit, potentially with a small office.

The Board asked for clarification on the appearance of the roof and whether it had recently been replaced. The applicant reiterated that while the shingles may look new, they are part of the original structure and no new construction has been added to date. The walls were replaced for structural reasons, not as part of an expansion.

The Board noted that the 2021 variance included a condition prohibiting enlargement or expansion of the existing residential structure. Because of this condition, any proposed changes would need to be fully reviewed and approved by the Board, along with referrals to the Planning Board for site plan approval and potentially a special permit due to the mixed-use designation of the property.

Mr. Lippolis explained the parking situation would remain unchanged, with one off-street space currently provided, consistent with the previously approved variance for mixed use.

Due to limited familiarity with the site and questions regarding the structure's context and potential visual impact, several Board members expressed the need for a site visit. Chairperson Wagner stated that the visit would help to inform their evaluation of the five variance criteria and overall compatibility with neighborhood character.

The Board agreed to coordinate a Saturday morning site visit prior to the next scheduled Zoning Board meeting. A vote on the application will be deferred until after the site visit.

There were no members of the public present to comment on the application. Chairperson Wagner stated that the public hearing would remain open and continue at the next meeting following the site visit.

3. APPROVAL OF MINUTES

Chairperson Wagner made a motion to approve the minutes of the March 13, 2025 meeting with noted edits. Seconded by M. Tuman. All in favor. The motion was carried by a vote of 4-0 (Mr. Weber, abstained).

Chairperson Wagner made a motion to approve the minutes of the March 25, 2025 meeting. Seconded by Mr. Mastronardi. The motion was carried by a vote of 5-0. All in Favor.

4. ADJOURNMENT

There being no further business before the Board, the meeting was duly adjourned at 7:50 pm.

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