

**VILLAGE OF CROTON-ON-HUDSON
DRAFT MINUTES OF THE ZONING BOARD OF APPEALS
TUESDAY, AUGUST 26, 2025**

PRESENT: Jim Tuman
Daron Weber
Doug Olcott

ABSENT: Christine Wagner, Chairperson
Rocco Mastronardi

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

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

a) Rob Luntz, architect, representative for John & Kerry Whelan of Switch Inc Electrical Contractors—25 North Riverside Avenue--Located in the C-1 R (A) Riverside Commercial District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.08 Block 3 Lots 63 & 64. Request for a rear yard variance from Village Zoning Code Section 230-35 for a proposed second story addition to an existing commercial building and for a variance request for a 2-year period to commence work from Village Zoning Code Section 230-164(E).

PRESENT: Mr. Rob Luntz, Architect
John Whelan, owners

Mr. Luntz, continued the application, representing John and Kerry Whelan, owners of Switch Inc. Electrical Contractors, regarding their property at 25 North Riverside Avenue. Mr. Luntz, summarized the two requested variances: one from Village Zoning Code Section 230-35 for a rear-yard setback to accommodate a proposed second-story addition to an existing one-story commercial building, and another from Section 230-164(E) for a two-year period to commence work.

Acting Chairman Tuman acknowledged that the public hearing remained open and the site visit that was conducted on August 9, 2025. Mr. Luntz addressed the Board, explaining that the business had grown and required additional space. He noted the current building was legally nonconforming and situated adjacent to a residential zone, which triggered updated zoning overlay rules. The proposed addition would be built over the existing footprint, needing relief due to the required 30-foot rear-yard setback. Mr. Luntz further explained that the project had been scaled down in both volume and height and emphasized that, if denied, a by-right alternative could involve constructing a larger, three-story building at the front of the lot, still within zoning allowances. He argued that the proposed plan, while requiring a variance, would ultimately have a smaller mass and less visual impact than a full re-design and build. The Board noted this distinction and acknowledged that an as-of-right structure could result in a larger structure within the allowable buildable envelope.

Following the application re-cap, Acting Chairman Tuman invited members of the public to speak on the application. During public comment, two nearby residents expressed opposition.

Ms. Laura Constantini of 6 Bank Street, whose home abuts the 25 N. Riverside Ave, stated concerns over loss of privacy and questioned the extent of what could be built as-of-right. Although the Board explained that a three-story structure could legally be built at the front of the lot, she remained opposed to any expansion, citing privacy impacts.

Ms. Katherine Wrighter of 7 Bank Street, whose property is located diagonally across from the site, also voiced opposition. She acknowledged that a larger by-right building might impact her view more, but believed the proposed rear addition would have a greater effect on her neighbor's privacy. She maintained her objection on both aesthetic and neighborly grounds.

Mr. Whelan, the applicant, came forward to speak. Mr. Whelan responded that the proposed addition would increase the building's height by only five feet and was intended to bring the structure more in line with surrounding two and three-story buildings. He emphasized that the project aimed to modernize a long-outdated structure with minimal impact on views, as confirmed during the Board's site visit and through the installation of story poles. Mr. Tuman confirmed that a site visit had been conducted and acknowledged the concerns raised by neighbors.

Board member Mr. Weber referenced an email from another resident opposing the project, citing potential loss of privacy and property value. He stated that he would vote against the variance. In response to the concerns raised and considering the incomplete Board attendance, Mr. Luntz requested that the matter be deferred to the next meeting to allow for fuller deliberation.

The Board agreed to leave the public hearing open and deferred further consideration of the application to the scheduled September 30th meeting.

3. NEW BUSINESS

a) Phoebe White & Matthew Gorbett, Owners-2 Palmer Avenue-Located in a RB 2-Family Residence District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.08 Block 3 Lot 17. Request for a rear yard variance from Village Zoning Code Section 230-40A(1) for the legalization of an existing 1931 detached garage.

PRESENT: Matthew Gorbett, Owner

The Board next reviewed the application of Phoebe White and Matthew Gorbett, owners of 2 Palmer Avenue, who sought a 1.5-foot rear-yard variance from Village Zoning Code Section 230-40A(1) to legalize an existing detached garage built circa 1931.

Matthew Gorbett introduced himself to the Board as the property owner. Mr. Gorbett explained that he and his wife had purchased the home recently and learned during the closing process, that the detached garage, despite having gone through the processing of getting a certificate of occupancy issued through a prior legalization process, encroached approximately 1.5 feet into the required rear-yard setback. Assistant Village Engineer, Ron Wegner confirmed that the garage dated back to the early 1930s and had been previously legalized under Permit #4 issued in the Village. However, a more recent, updated survey

revealed that the garage sits closer to the rear property line than previously understood. The garage has existed for nearly a century without causing any known adverse effects, and the applicants now sought to formally legalize the structure in order to clear the title and ensure that it fully complies.

With no further questions from the Board, acting Chairman Tuman opened the public hearing. With no comment from the public, the hearing was closed.

The Board then discussed and reviewed the 5 Factors. The Board members agreed that the application was straightforward. They noted that the garage had been in place for nearly 100 years and that granting the variance would not result in any negative impacts to the neighborhood or surrounding properties. There had been no objections from neighbors, and no physical or environmental concerns were identified. The Board further found that the granting of the variance would not produce an undesirable change in the character of the neighborhood as it has been there for a century and that the benefit sought could not be achieved through any feasible alternative short of demolition or costly relocation of the structure. The Board discussed and agreed the requested 1.5-foot variance was minimal and not considered substantial in light of the overall site context. Lastly, although the difficulty technically preceded the current owners, it was not considered a self-created hardship in the legal sense, as the encroachment stemmed from a pre-existing condition dating back nearly a century.

The Five 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 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 not self-created.

MOTION: Mr. Olcott made a motion to grant a rear yard variance of 1.5 ft for the legalization of an existing 1931 detached garage. Seconded by Mr. Weber. All in Favor. Vote 3-0 Roll Call: Mr. Olcott, yes, Mr. Weber, yes, Mr. Tuman, yes, (Chairperson Wagner, absent, Mr. Mastronardi, absent).

b) Richard Duggan, Owner-49 Van Wyck Street-Located in a RA-5 Residence District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.08 Block 5 Lot 28. Request for an area variance to allow for a single-family residence with an existing accessory apartment with Planning Board approval from Village Zoning Code Section 230-41E to allow for an additional accessory dwelling unit (cottage) and for a variance request for a 2-year period to commence work from Village Zoning Code Section 230-164(E).

PRESENT: Mr. Richard Duggan, owner

Mr. Richard Duggan came forward to address the Board and introduced himself as the property owner. Mr. Duggan stated he was seeking an area variance to allow for a second accessory dwelling unit (ADU) on his property, within

an existing detached garage. The property currently has a single-family home with one existing, approved accessory apartment in the basement.

Mr. Duggan appeared before the Board and described the nature of the property, which dated back to circa 1889 and had a history of mixed residential use, including prior use as a bed and breakfast. He stated that he resided at the property and noted that the proposed ADU would be established in an existing finished space above the garage. He further explained that the studio space was already heated and insulated, as it previously served as a pottery studio. The applicant explained that no further expansion of the building's footprint was proposed, and the only anticipated exterior change was the possible addition of a single window for ventilation.

The applicant emphasized that multiple neighboring homes in the area are multifamily residences, many of which are pre-existing, nonconforming uses. Mr. Duggan further stated that he had provided detailed responses to the five variance factors and had received support from several neighbors, with two having personally visited the site. The Board confirmed that the basement accessory apartment had previously been approved by the Planning Board and Building Department following a gap in the original 1983 approval.

Assistant Village Engineer, Ron Wegner clarified that based on discussion with Village Counsel, the application was appropriately classified as an area variance rather than a use variance. The code permits one ADU on a single-family lot; therefore, the use itself is allowed, but the applicant sought relief from the limitation on the number of units permitted.

A Board member conducted a site visit prior to the meeting, during which Mr. Duggan provided a tour of both the garage structure and the existing ADU in the basement. It was noted that the garage bay would be maintained for parking and that the proposed changes to the studio involved only the addition of a kitchen and bathroom, with no changes to the structure's exterior footprint.

Acting Chairman Tuman opened the public hearing. Having heard no comment from the public, the hearing was closed.

During discussions, Board members agreed that the request was consistent with the Village's broader housing goals, particularly as the code had recently been amended to allow ADUs in single-family districts. They noted that the property's size, layout, and history as a multifamily residence created a unique context that distinguished it from other residential lots. The site also offered ample off-street parking, including one garage space, three paved spaces, and additional parking capacity, mitigating any concerns about neighborhood impact.

Mr. Weber inquired whether granting the application would set precedent. It was then discussed that due to the unique history and characteristics of the property, including its size, historic multifamily use, and physical configuration, approval of the application would not necessarily serve as precedent for others. The Board concurred that this case was distinctive and aligned with the intent of the code changes promoting accessory housing initiatives.

The Board then discussed the Five Factors. The Board found no undesirable change in the character of the neighborhood nor detriment to nearby properties, as the use was already established and the change would be minimally visible. The Board agreed there was no other feasible alternative to achieve the applicant's specific goal of 2 ADUs without the requested variance given the code limitation of one ADU per lot. Furthermore, while the request to double the number of ADUs on the lot could be considered substantial, the Board determined that the impact was not significant in context seeing as though in prior years it served as a Bed & Breakfast. It was further found that no adverse physical or environmental effects were anticipated because of the variance.

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 self-created.

MOTION: Mr. Olcott made a motion to grant an area variance to allow a single-family residence with one existing accessory apartment to add a second accessory dwelling unit (“accessory cottage”) above the existing garage structure. Seconded by Mr. Tuman. All in Favor (3-0). Mr. Olcott, yes, Mr. Tuman, yes, Mr. Weber, yes. (Chairperson Wagner, absent, Mr. Mastronardi, absent)

While the motion passed unanimously and the area variance was granted; the Board did not act on the request for a two-year extension to commence work, as it was not formally presented and discussed during the meeting.

c) Darlene Garrett, Co- Trustee of The Vito N. Calcutti Sr. and Virginia Calcutti Irrevocable Trust- 19 Hunter Place—Located in a RA-5 Residence District and designated on the Tax Maps of the Village of Croton-on-Hudson as Section 78.08 Block 4 Lot 27. Request for side yard, front yard, and rear yard variances from Village Zoning Code Section 230-33A for the legalization of an existing front porch extension & enclosure, legalization of roof structure over rear patio, and an existing rear extension. As well as a variance request from Village Zoning Code Section 230-40E(1) for existing patios being closer to the property lines than allowed.

PRESENT: Jacob Amir, attorney

Jacob Amir introduced himself to the Board as the attorney representing Vito Calcutti Jr. and Darlene Garrett (trustees of the property located at 19 Hunter Pl). Mr. Amir explained that the application arose from a title search that revealed zoning violations, prompting the applicants to seek the legalization of conditions that have existed for over 50 years. A key component of the request involved the enclosed front porch, which had received a building permit and certificate of occupancy in 1974. However, current measurements showed the porch extended approximately 13.0 to 13.2 feet from the front property line, therefore requiring a front yard variance of about 2 feet, as the current code requires a 15-foot front setback. At the time, it appeared the Building Department issued the CO without accounting for the required variance which was stated to an administrative oversight or “glitch” that left the enclosure technically noncompliant under today’s standards.

Mr. Amir stated that the applicants were also seeking variances to legalize a roof overhang and a covered patio (located at the rear of the property), both of which are located within the 25-foot rear setback and extended to or over the property line. Mr. Amir stated that the structures dated back several decades, referencing provided pictures from as early as 1976. Mr. Amir stated there were recently recorded boundary-line and easement agreements with neighboring properties at 13 and 15 Michaels Lane, which resolved prior encroachment issues by granting exclusive use and maintenance rights over the affected areas. These agreements now allowed the applicants to maintain the improvements in place and run with the land.

Mr. Wegner explained to the Board that an initially requested side-yard variance was withdrawn following a recent survey dated May 8, 2025, which identified an additional five feet of width acquired through adverse possession. This acquisition eliminated the need for side-yard variance, as the adjusted lot line brought the existing structure into compliance on that side.

Furthermore, Mr. Amir presented another area of concern that involved a small rear projection of the house. The rear extension measured approximately 5 by 12 feet, which also lied within the rear setback. This extension was not fully documented on prior building records but was confirmed during site inspection and review of the updated survey.

With no further questions from the Board. Acting Chairman Tuman opened the public hearing. With no one being heard, the public hearing was closed.

The Board then noted for the record that one letter was from a resident at 11 Michaels Lane expressing concern over the potential for a future second-story addition. The Board noted that any such proposal would require separate variances and reviews and was not under consideration in the current application.

The Board then discussed and carefully reviewed the five factors. The Board agreed that the structures in question had existed for decades, with no known complaints, and the most affected neighbors have signed easement agreements granting consent and clarifying use rights.

as the variances are needed to legalize existing improvements made prior to or during early zoning administration. In particular, the front porch had been issued a CO in 1974, and the rear improvements were built well before modern code enforcement procedures were in place. The Board then discussed the relief requested. They agreed that it was numerically substantial, particularly in the rear, the overall impact was not. The Board found that the presence of recorded easements, the historical nature of the improvements, and the context of the neighborhood mitigated concerns typically associated with substantial variance requests. The Board agreed there would be no negative environmental impacts seeing as though the improvements were existing, stabilized, and had not caused drainage, visual, or access issues. It was also noted that no objections were raised by abutting property owners that had direct visibility or proximity. The Board debated if the difficulty was self-created but ultimately agreed the difficulty was partly self-created, especially in regards to the unpermitted rear work. However, the front porch had been permitted and CO'd in 1974, which suggested at least partial reliance on the Village. Given the decades that have passed and the applicant's efforts to rectify all legal issues, the Board determined that the balance of equities favored granting relief. The Board then noted that all approvals were based on conditions and measurements shown in the updated May 8, 2025 survey and included acknowledgment of the recorded easement agreements resolving prior encroachments. The Board agreed that the applicant had made a good-faith effort to resolve historical irregularities, respect neighbor concerns, and ensure clear title going forward.

The Five 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. Tuman made a motion to grant a front yard variance of 2 ft for the legalization of an existing front porch extension & enclosure, a rear yard variance of 25 ft for the legalization of roof overhang (roof structure over rear patio) and for the existing improvements (rear extension) as shown on the plans as well as a 4ft variance for existing patios being closer to the property lines than allowed. Seconded by Mr. Olcott. All in favor 3-0. Roll Call: Mr. Tuman, yes, Mr. Olcott, yes, Mr. Weber, yes, (Chairperson Wagner, absent, Mr. Mastronardi, absent)

4. APPROVAL OF MINUTES

The approval of Minutes of July 22, 2025 were postponed.

5. ADJOURNMENT 8:04

There being nor further business before the Board, the meeting was duly adjourned at 8:04 p.m.

Respectfully Submitted,

Stefanie Correale
Secretary to the Zoning Board of Appeals