

Village of Croton-on-Hudson
Zoning Board of Appeals Meeting of
November 9, 2016

PRESENT: Rhoda Stephens, Chair
Alan Macdonald
Doug Olcott
Christine Wagner

ALSO PRESENT: Joe Sperber, Assistant Building Inspector
Trustee Ann Gallelli, Village Board Liaison (2nd half of meeting)

ABSENT: Peter Lavery

1. CALL TO ORDER:

The Zoning Board of Appeals Meeting of November 9, 2016 was called to order at 8:00 P.M.

2. NEW BUSINESS:

- a) **Evans, Julie, Agent for R. Aaron LaMar - 228 Hessian Hills Road.** Located in a RA-40 District and designated on the Tax Maps of the Village as Section 68.09 Block 4 Lot 5. Request for reissuance of a variance for a proposed carport (accessory structure) that is located in the front yard and projects nearer to the street on which the principal building fronts than such principal building.

Ms. Evans was present tonight. She explained that she was reapplying for variances for a proposed carport which had been previously granted but had expired. The work on the additions and renovations to the house had caused the delay with the carport project. She said there is no change with the proposed carport but it is now clearer what variances are needed. She added that the neighborhood is eclectic, hilly, and woody. The Applicant's property is set back from the street and there would be no need for change to the curb cuts.

Mr. Olcott asked what was different this time and Mr. Sperber explained that there was more clarity regarding from what section(s) of the Village Code the Applicant needed the variances.

Chairman Stephens asked why this particular location was chosen and Ms. Evans replied that there would be minimal changes to the driveway and the site itself using this location. A different location would require trees to be removed.

Chairman Stephens then opened the hearing to the public and with no one stepping forward, she closed the public hearing.

Ms. Wagner made a motion to grant a variance for the proposed carport (accessory structure) which projects nearer to the street on which the principal building fronts than such principal building and which will not be located in a side or rear yard and with the condition that the carport remain an open carport. The motion was seconded by Mr. Macdonald. The motion passed 4 to 0 with all Members present voting in favor.

- b) Schneider, Heike – Agent for Kussa Corporation - 370 South Riverside Avenue.** Located in a C-2 District and a Gateway Overlay District and designated on the Tax Maps of the Village as Section 79.13 Block 1 Lot 70. Request for reissuance of a front yard variance, rear yard variance, and front façade transparent glass percentage variance for change from an existing 1-story commercial building to a 3-story mixed occupancy building.

Abby Razghandi, owner of the Kussa Corporation, was present at tonight's meeting. He explained that he is seeking the same variances that were granted last year but had expired for the work to convert his property to a 3-story mixed occupancy building.

Chairman Stephens then specified the variances being sought which were a 2-foot 8-inch rear yard variance on the north side of the building, a 20-foot front yard variance from Benedict Boulevard to increase the required front yard setback range to 25' to 40', and a 37% transparent glass percentage variance for the street level Benedict Boulevard front façade.

Mr. Sperber added that he had discussed this new application with Mr. Razghandi and the Architect and it was determined that they were indeed the same as those granted last year.

Chairman Stephens added that the application had been referred to the Water Advisory Committee and there had been no issues.

Mr. Olcott asked Mr. Razghandi when he hoped to start the construction and asked what had held up the project. Mr. Razghandi said he hoped to start next week and that a merger with the involved banks had caused the delay.

Chairman Stephens opened the hearing to the public. No one stepped forward to speak so the Chairman closed the hearing.

Mr. Olcott then made a motion to grant the same variances that were granted by the ZBA on March 11, 2015. Ms. Wagner seconded the motion. The motion was passed with a vote of 3 to 1. Chairman Stephens, Mr. Olcott, and Ms. Wagner voted in favor; Mr. Macdonald was opposed.

- c) Drapala, Desiree – 170 Grand Street.** Located in a RB District and designated on the Tax Maps of the Village as Section 68.17 Block 4 Lot 45. Request for side yard variance and total side yard variance for a proposed new one-family house to replace a house that was destroyed by fire.

Ms. Drapala presented her application. She said she is seeking a 5.5-foot side yard variance and a 12.5 total side yard variance for a proposed new one-family house. She said she is aware that a similar application came before the Board a couple of years ago and there had been concerns expressed by the adjoining neighbors. She added that she had gotten together with the Village Engineer to discuss the proposed relocation of the footprint of the house and that she is ready to build and move into the house.

Ms. Wagner asked if she had spoken to the neighbors with the concerns. She replied that she did and that she had explained that she would potentially build a modular home, would try not to touch any trees, would not have the footprint set back as far as the previous application, and has plans for a smaller house.

Ms. Wagner asked to confirm that the proposed house would add a little more than 1 foot to the proposed setback than the previous one. Ms. Drapala confirmed it.

Mr. Sperber told the Board that NYS Code had just been changed making it more restrictive and that the side of the house toward the neighbors with concerns would need to be fire-rated.

Chairman Stephens then opened the hearing to the public.

Mr. Nick Scutari and his brother Mr. Jonathan Scutari, both residing at 172 Grand Street, both spoke in opposition to the application. They said the proposed house would be only 10 feet from their home which is too close. They said they suffered a lot of damage from the fire in the old home on the site and paid out of pocket for all the damages. They also worried that the value of their property will decrease.

When asked by Mr. Olcott if there would be objection to any house being built on the site, while reminding them that when they moved into their home, the former house on 170 Grand Street existed, Mr. Jonathan Scutari said they are not trying to take anyone's rights away and could accept a house being built on the same footprint.

The Board then asked to see the minutes from the previous ZBA application for a proposed house on the site. The Secretary printed the minutes from the September 10, 2014 meeting and distributed them to the Board.

Chairman Stephens then closed the public hearing and asked the Board Members for their thoughts. Mr. Olcott said he thought this proposed house was less intrusive than the last application. Mr. Wagner said she thought this application was very similar to the previous application; she did not have the same concerns about fire issues as the Scutaris but in balancing all the factors involved she would have to vote against the current application.

Mr. Olcott then made a motion to grant a 5.5-foot side yard variance and a 12.5-foot total side yard variance for the proposed new one-family house. The motion was seconded by

Chairman Stephens. The motion was denied with a vote of 1 to 3; Mr. Olcott voted in favor and Chairman Stephens, Mr. Macdonald, and Ms. Wagner were opposed.

- d) Levy, Alexander, Agent for Selina Urbina (owner of 33 Finney Farm Road) - 35 Finney Farm Road.** Located in a RA-40 District and designated on the Tax Maps of the Village as Section 67.16 Block 1 Lots 21, 21.01, and 22. Appeal of Village Engineer's approval of issuance of Building Permit #20160036 on 4/1/2016 for the rebuilding/relocation of a shed on 35 Finney Farm Road, owned by Philip Grunes and Deborah Hayn.

Attorney Alexander Levy was present tonight to represent the Applicant, Selina Urbina, of 33 Finney Farm Road. He said he is appealing the issuance by the Village Engineer of a Building Permit (#20160036) approving the relocation and rebuilding of a shed on 35 Finney Farm Road. The owners of 35 Finney Farm Road are Philip Grunes and Deborah Hayn. He started by saying that this application is based on a dispute between two neighbors and started over a disagreement about trees in a shared driveway. Ms. Urbina claims she has easement rights to the driveway. Mr. Levy continued to say that for Ms. Urbina the only access to her property is from the shared driveway. The roots from dying trees in the shared driveway were causing sewage backup on the Urbina property. A dispute over the ownership of the trees began which turned into a dispute over ownership of the driveway and easement rights to the driveway. The Grunes claimed the driveway property belonged to them and then told Ms. Urbina that she and her guests could no longer park on the driveway. Attorneys became involved in the situation. Mr. Peter Schuyler is representing Mr. Grunes and Ms. Hayn. The dispute then moved to the shed. Mr. Grunes was told he needed to move his shed which had no building permit or certificate of occupancy and which encroached on the Urbina property. Mr. Levy then displayed a photo, supplied by Mr. Schuyler, of the proposed relocation of the shed on the shared driveway that will block the Urbina garage (currently being used for storage) and preventing egress and ingress to the Urbina property. Mr. Levy said the shed has been termed the "hate hut".

Ms. Wagner asked if the shed was now at the new location and Mr. Levy replied in the negative explaining that there is a stay on the shed.

Chairman Stephens asked what the property line setback will be for the shed and Mr. Levy replied that the plot plan for the shed shows a 5-foot setback from the driveway apron and added that the shed will eliminate access/use of the Urbina garage and that the Urbina front door will be behind the shed.

Ms. Wagner then asked Mr. Levy what Sections of Village Code he felt were being violated by the issuance of the building permit for the shed. Mr. Levy replied that he is requesting an interpretation of Section 230-40(A)(1) and that Sections 230-2 and 230-181 need to be considered also. Mr. Levy said that in essence the shed is being put in the Urbina's "front yard" if it is accepted that the driveway gives easement rights to Ms. Urbina, that the purpose of the Code is to prevent a shed from being put in someone's front yard, and that the driveway is still part of the road.

Mr. Macdonald asked who owns Finney Farm Road and Mr. Sperber replied that it is a private road owned by Hudson National Golf Club (HNGC); however, Mr. Levy said he did not believe it is owned by HNGC.

Mr. Levy then said that the point of the Code is to protect neighbors and there is a safety concern that there would be insufficient space between a large tree and the shed to access the Urbina property for access by a firetruck should it be needed. There is also concern about resale value and that aesthetic values should also be protected.

Mr. Olcott said he had walked the property and had spoken to the owner of 35 Finney Farm Road, Mr. Grunes. The shed is on an old foundation that encroaches on the Urbina property by about 8 inches and that it would make more sense for Ms. Urbina to grant an easement to Mr. Grunes.

Mr. Levy replied that it is possible for Ms. Urbina to grant the easement but if the building permit for the shed had been denied, the two parties would have to work it out.

Ms. Wagner questioned whether the Village has the right to deal with the private easement issues.

Chairman Stephens asked if the Village Engineer was aware that the matter was going to court and Mr. Levy replied in the positive.

Mr. Peter Schuyler was present to represent Mr. Grunes and his wife, Ms. Hayn, and spoke next. He said there is no dispute that the Grunes own the driveway. He said the dispute did indeed start over a tree issue and that a suit had been brought against Ms. Urbina which resulted in the complaint about the shed. He confirmed that the shed had been built on top of an old foundation and only encroaches about 6 inches. He said that the owners of 33 Finney Farm Road were aware that the property was non-conforming when they purchased it. He said the Grunes had spent tens of thousands of dollars enlarging the gravel parking area and said that the Grunes would like to keep the shed at its present location, would give egress and ingress to Ms. Urbina (which is a separate issue from the shed) but that Mr. Peter Lavery (who also resides at 33 Finney Farm Road) is insisting that the shed be moved.

Mr. Schuyler continued to say that Mr. Grunes has an as of right regarding the shed and plans to relocate it 5-feet from the property line. He said that some of the statements made by Mr. Levy were untrue, such as it is not a garage pictured behind the shed and that it is not a front door also pictured behind the shed but a door that leads to the basement. He said that any reference to a lawsuit is outside of this Board; that the relocated shed would not impede egress and ingress to the Urbina property and that Ms. Urbina does not have an easement.

Mr. Macdonald asked if there are sewers on Finney Farm Road because the problems began with the sewer lines. Mr. Schuyler said that there are pipes that could have been replaced, along with semi-annual chemical use, but Mr. Lavery wanted the trees out.

Mr. Levy said that although Ms. Urbina was not present at tonight's meeting, he could factually back up everything; that although the garage is not being used as a garage currently, it is indeed a garage.

Chairman Stephens then said that it was unfortunate that Mr. O'Connor was not in attendance to speak. Mr. Sperber said he could not speak for Mr. O'Connor but he felt that Mr. O'Connor wanted the Board to render its decision without his input.

Chairman Stephens then closed the public hearing and asked the Board for its thoughts.

Mr. Macdonald said the Village Engineer made a decision to issue the building permit and that the dispute belonged in the courts.

Ms. Wagner said she didn't think the Village should be involved in personal disputes and needs to look to the Village Code as it pertains to the permit.

Mr. Macdonald said he would not want to override the Village Engineer's decision.

Ms. Wagner made a motion to grant the appeal to invalidate Building Permit #20160036. Mr. Macdonald seconded the motion. The motion was denied with a vote of 0 to 4 with all Members present opposed.

3. OTHER BUSINESS:

- a) Review and recommendation to Village Board of draft Introductory Law 7 of 2016 amending Section 230-4 of Chapter 230 of the Village Code (regarding walls, fences, and accessory uses).**

The Board reviewed the draft Introductory Law 7 of 2016 and made recommendations for 3 minor changes.

Mr. Olcott made a motion, seconded by Ms. Wagner, to approve the suggested revisions to the draft of Introductory Local Law 7 of 2016. The motion passed with a vote of 4 to 0 with all Members present voting in favor.

4. APPROVAL OF MINUTES:

Chairman Stephens made a motion to approve the amended minutes and resolutions of the September 14, 2016 Zoning Board of Appeals meeting. The motion was seconded by Mr. Olcott. The motion passed 3 to 0 in favor. Chairman Stephens, Mr. Macdonald, and Mr. Olcott voted in favor; Ms. Wagner abstained from voting because she was absent from the September 14th Meeting.

5. ADJOURNMENT:

The meeting was adjourned at 9:50 P.M.

Zoning Board of Appeals Meeting
November 9, 2016
Page 7

Respectfully submitted,

Toni Cruz
Secretary, Zoning Board of Appeals