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VILLAGE OF CROTON-ON-HUDSON ZONING BOARD OF APPEALS
MEETING MINUTES OF OCTOBER 13, 2010

MEMBERS PRESENT: Seth Davis, Chairman
Rhoda Stephens
Doug Olcott
Roseann Schuyler
Alan Macdonald

Also Present: Joseph Sperber, Asst. Bldg. Inspector

Meeting came to order at 8:00 P.M.

Seth Davis, Chairman, announced the location of fire exists to all in attendance of the meeting.

HEARINGS:

Poritzky Associates Ltd., Albany Post Road. Located in a 0-1 District and designated on the Tax Maps of the Village as Section 67.10 block 2 Lot 14. Request for a variance with respect to Village Code Section 230-164(E) relating to expiration of a variance and Section 230-35 with respect to Lot Depth.

Herman Poritzky – I am involved with family business, Poritzky Assoc. In 1988 I was able to purchase one half acre of land that is next to the office building located at 1380 Albany Post Road. I did not realize that the half acre was to be part of 1380 Albany Post Road. I always wanted to keep it separate. It was a mistake on my part. I want to take one half acre from the original survey. It has been separate all these years since 1988. I am asking for a variance on two items. One is the fact that I would need approximately a variance of 54 ft. that would be part of the depth to make it the required 100 ft. so I can build on the widest section of the half acre. The second request I am asking for relates to the expiration of a variance. I am requesting that the variance be for a period of five years instead of the usual 1 year period due to the economy. Right now I am not in the position to build because of the economy.

Davis – I am not sure about this application. We are not the Board that would act on the first request. That is a sub-division. So, we basically would not be the Board to discuss the details concerning those lots. Also, just to re-hash a lot of the history of these lots, I was on the planning Board when this came before them. We also have a copy of the original application. As I recall, back then it was between you and “Mike’s Market”, who is now deceased and at the time you were planning on building some sort of project together.

Poritzky – No. That is not correct. I was offered the entire acre. I went to “Mike” and said, I have an opportunity to buy the whole acre and I then offered to have him take half. We just named it “Kosky Acres”.

Davis – Correct me if I am wrong. We reviewed it for site plan purposes and there was a building that was never built.

Poritzky – It was just a sub-division and that is all it was. It was not for any construction.

Davis – That was during a time period where the village was combining lots and making fewer lots. In any case, this is a matter for the Planning Board to work out. The question for the Zoning Board is whether or not we should grant the variance for lot depth.

Sperber –The depth variance should be 49 ft., not what was requested by the applicant.

Olcott – There is a drawing from Neal Carnow that shows an office building that was going to be built.

Poritzky – It was going to be built but, unfortunately, we decided to abandon the plans because of the economy.

Olcott – That was after the sub-division?

Poritzky – Yes.

Olcott – So, is it your intention to resurrect that plan?

Poritzky - No. I just want it as a separate lot. I always wanted it to be separate. But, unfortunately he merged it with this site plan survey. Unfortunately, I forgot all about it. (The applicant was referring to a copy of a site plan survey he submitted with his application).

Olcott – I don't know if we can grant a variance when there is no construction being proposed.

Davis – You did get a variance in 1988.

Olcott – But, was that not in conjunction with the office building?

Poritzky – No.

Discussion followed over survey.

Poritzky referred to notes, item 5.

Poritzky – No. That was a few years after that. I purchased it from a gentleman and I wanted “Mike” to have half an acre.

Macdonald – Who owns the other half now?

Poritzky – “Danny’s Croton Nursery”.

Olcott – The January 1988 Minutes states that Neal Carnow represented Herman Poritzky. The variance request was for a rear yard setback for an office building. That is not the matter we are looking at.

Davis – Referred the Board to the September 9, 1987 minutes and the 1988 minutes which were missing pages.

Schuyler – Referred the Board to the Resolution.

Seth – (Referring to Resolution): There was an area request for minimum rear yard setback. The variance was granted on September 9, 1987. There also was a variance for Lot Depth. This was for the two curb cuts. Does that ring a bell?

Poritzky – Yes.

Davis – So the 1988 variance is different?

Discussion followed over previous variances that had been granted.

Davis – Referred the applicant to a letter dated May 21, 2009, from the Village Engineer, Daniel O’Connor to the applicant.

Poritzky – Reviewed that letter and stated “yes. I remember the letter”.

Davis – This is what he would have wanted you to do and you wanted it the other way around. So we are not concerned about that.

Macdonald - What he is saying is that the subdivision of the property was not a sub-division but a merger. So, if the original was not valid -----

Davis –It was a merger because you are changing the lot line. Technically, that is a subdivision. So, Mr. Poritzky is technically saying he wants a subdivision. Therefore, he will need to go back to the Planning Board.

Stephens – Referred to the 1988 Minutes and questioned the use of “Tax Map I.D. # and “Map #’s.

Davis – I do not think those are the tax map numbers. They might be the survey lot numbers. I also do not think a deed indicating the new property description was ever filed for. So, basically, he did not complete his obligation to the Planning Board. So, he would have to go back to the Planning Board to show that it was kept independent and separate. I think that one of the reasons the Planning Board wanted him to merge it was because he wanted to build the office building and then tear down the other office building. So, this is perplexing, if you are saying that this was not really effective because it was not filed. Maybe that could be considered a failure of the Planning Board's conditions.

Davis – Let's talk about what we do have power to do here. I agree with Mr. Olcott, it is kind of hard to look at this to see what kind of variance you are asking for. I think it would be easier for us if you had a drawing showing a proposed house.

Olcott – I am also confused with all the lot numbers.

Sperber – Explained that the numbers shown on the surveys etc, were not the Village's Section, Block, and Lot numbers, but lot numbers used by the surveyor to identify the lots.

Olcott – We do not typically grant variances unless we know the proposed structure that is going to be built. Because, if he were to build larger or smaller, all of that would be taken into consideration when looking at the depth variance.

Poritzky – I was told that I could build approximately a 2000 sq. ft. Building.

Sperber – It could be a building that goes only forty feet deep, but if you notice, that lot goes into a bow tie shape. The area with the least depth, you can only build a building, that is about thirty feet in depth.

Schuyler – I agree with Mr. Olcott. The qualities of what is being constructed are part of the application and without something to consider, it is hard to grant a variance.

Davis – I think we should require a footprint of a building.

Stephens – Also, anything that we decide favorably on could be overturned because we cannot meet the five factors.

Davis – Went over the five factors with the applicant and explained to the applicant how the five factors play a role in the Board's decision. Mr. Davis further explained how a decision by the Board at this point in time could be overturned if the five factors are not met. Mr. Davis also stated to the applicant that he also needs to resolve the issue of the severance of the two lots and filing of a new deed. You can then

come back to us when you are ready to build. But, we cannot guarantee anything. We would need to see plans.

Poritzky – So, what you are asking for is a house sketch when I apply for the variance.

Davis – Certainly the more complete the plans before us are, the easier our effort is going to be when it comes time to approve or disapprove it. We can't just say we will give you a 40 ft. variance.

Poritzky – I understand fully.

Stephens – I agree that we should adjourn the hearing with respect to lot depth until January of 2011, in order to give the applicant time to go before the Planning Board before he comes to the ZBA with more specific drawings.

Ms. Stephens advised the applicant that if his plans show a specific place where the house will sit, that is where he will need to put the house, because that is what the approval will be based on.

Poritzky – Agreed to adjourn the hearing for Lot depth until January 2011, so he can have time to go to the Planning Board first and prepare plans for the ZBA.

Davis – What does the Board think about the applicant's time request of five years instead of the usual one year for the previous variance that was granted? I myself would be reluctant to do that. I think it is only in fairness that we should raise this issue now to you (the applicant). There are reasons why it is requested that you start construction within one year of the variance. This needs to be discussed with the rest of the members of the board.

After deliberation the Board agreed as follows:

The Board unanimously agreed to adjourn the hearing until January 2011, in order to give the applicant time to appear before the Planning Board and resolve the issue of the severance of the two lots, and to develop more detailed construction plans for the ZBA to review in connection with the application with respect to lot depth.

Respectfully submitted,

Janice Fuentes
ZBA Secretary
10/13/10

