MINUTES

CRESSKILL PLANNING BOARD

JANUARY 26, 2010

Mr. Vaccaro called the meeting to order at 7:39 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call: Mayor Romeo, Councilman Brennan, Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Mozur, Mr. Laurita and Mrs. Schultz. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney.

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Mr. Galdi made a motion to approve the minutes of the January 12, 2010, meeting. The motion was seconded by Mr. Laurita. All present were in favor of the motion. Motion approved.

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Correspondence

Notice for membership for the New Jersey Association of Planning & Zoning Administrators. Filled out and sent.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated January 20, 2010, sending Mr. Nagi, general contractor, on behalf of the owner, Mr. Amin Himansu, of 265 Highland Street, to this Board for approval. He had proposed to construct a second floor addition with some alterations on the first floor at 265 Highland Street. He has gone beyond the scope of the project in that he has taken down all the walls to the decking on the first floor and it is now considered a "New Construction," meaning it needs to be considered for COAH (Coalition for Affordable Housing) and it needs site plan approval. Mr. Azzolina noted that this is the corner of Highland and Monument Place and he has not seen any plans. He does not know what they were proposing to do. Mayor Romeo noted that they knocked the house down and they are already up to the second story before they caught it. The owner is questioning what is a knockdown. Mr. Azzolina notes that there is a section in our code relative to partial destruction that basically says you can't destroy more than 50% of your house without coming to the Board for site plan approval. There is another section in the code that speaks to site plan approval required for any addition, alteration, or modification of your home.

Mayor Romeo asked about variances. Mr. Azzolina noted that most likely they will need variances in that it is a corner property and just by eye he would suspect that they don't have the two front yard setbacks. He hasn't seen any plans for this property yet. He will get a copy from the Building Department and see exactly where they are.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated January 21, 2010, sending Mr. Michael Virgona, of Kelly Varnell Virgona Inc, to this Board on behalf of Ms. Alvarez. Ms. Alvarez is seeking approval to build a landscaped vegetable garden with a deer fence at 158 Truman Drive. No plans have been received. Mr. Azzolina noted that the history is that this is the property that is situated at the corner of Truman Drive and Pendergast Court. Mrs. Alvarez had done a lot consolidation a couple years ago. It is a two acre piece of property. DiStaulo and other contractors have parked their equipment on that property for quite a while. That is all in the process of being removed. He has not seen the

garden plans, but has seen the plans for an ornamental wall that is going around the property right now just to clean it up.

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Subdivision Committee

Revised plans for Application #1391, 388 11th Street have been received, dated January 25, 2010 and January 26, 2010.

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Report from the Borough Engineer's Office

Mr. Azzolina noted that the revised plans for Application #1391, 388 11th Street, Nancy Radovich, have been received. Two plans were submitted, one with a revision date of January 25, 2010 and one with a revision date of January 26. 2010. That plan was revised in accordance with his memo dated January 12. The Board had approved this plan at the last meeting, subject to these final revisions. Those revisions have been. He recommends that this plan be signed, with a revision date of January 26, 2010. Mr. Galdi made a motion to approve, seconded by Mr. Mozur. All present were in favor. Motion approved. Two copies of the plan with approval memo were signed. One copy to the Building Department, one copy to the file.

Mr. Azzolina noted that they had looked at the plans for the Rosenberg Application #1394. He has done a memo dated January 14, 2010 and that has been provided to the applicant's builder for the necessary plan revisions. He believes building permits have been issued just so they can get a jump on it. There is nothing major in his report that would impact the construction of the house, so long as the height he shows is to be compliant. That is the major comment. He has not received the changes yet. This was fast tracked due to the fire issue. They are moving, but they are proceeding at their risk if there were anything determined to be incorrect.

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Old Business

None.

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Public Hearing – Application #1392, 234 Vaccaro Drive

Mr. Schuster asked the applicant if they had the certified tax list and the affidavit of mailing. A representative of Kulick Development presented Mr. Schuster with all the certifications that were sent to the property owners within 200 feet and the public hearing notice. Mr. Schuster noted that he doesn't have an affidavit of mailing. This is the affidavit stating when the letters were posted to the public. He asked who posted them. Kulick Development posted them. They came to the assessor's office, got a list of property owners within 200 feet, sent them a certified, return receipt letter notifying them, and posted the public notice in the newspaper. Mr. Schuster noted that that wasn't a problem. They are supposed to have an affidavit stating when that was posted. The Kulick representative didn't know that. She was told to bring the original from the newspaper when it was posted and that is what she brought. Mr. Schuster asked who told her that. She said the secretary to the Planning Board when they called for information asking what they needed to bring. The only thing they didn't have was the originals. Mr. Vaccaro asked who she talked to because she didn't talk to the secretary. She said that Sara, from Kulick Development talked to someone maybe from the Borough Hall. She called to find out what the rules and regulations were. She thought they had everything covered.

Mr. Schuster asked if they were up to date with their escrows. The Kulick representative noted that they are up to date with their escrows. Mr. Schuster told them he will give them the information so they can write something up for the affidavit of mailing to get it done. Mr. Schuster noted that they were missing one of the original certified mail receipts but they have the copy, so that is sufficient. He will need them to prepare something for the affidavit.

Mr. Vaccaro opened the public hearing. Mr. Art Lorenze, Schwanewede/Hals Engineering, was present representing the applicant, Kulick Development, Inc. The reason for the meeting tonight is the six-foot high retaining wall. Mr. Schuster asked who the applicant was. Mr. Lorenze noted that Kulick Development, Inc. is the applicant. Mr. Schuster asked if Mr. Lorenze was a lawyer. Mr. Lorenze noted that he was not. Mr. Schuster noted that having a lawyer was a requirement. Mr. Lorenze asked if, supposing the variance went away, and they requested a waiver from the Board instead of a variance, and what he means is, they are here because they need a variance for a six-foot high retaining wall. If the Board grants them a waiver, if that is the proper terminology, to move the wall two feet into the shade tree easement, and there are no shade trees there currently, shade trees are spaced every thirty to forty feet, if they could move the wall two feet or so into the easement, they, therefore, could make two walls, one three feet and one three feet, or one two feet and one four feet, thereby, the six feet goes away. Now, that would be at the pleasure of the Board, if they could, indeed, move the wall forward slightly into that shade tree easement.

Mr. Schuster noted that the question is, are you a lawyer, and it doesn't really make any difference what the relief is, it is a matter of whether you should be here to begin with. He asked what the answer to that was. Mr. Lorenze noted that he is not an attorney, but he is an engineer.

Mayor Romeo asked Mr. Azzolina what the shade tree easement was. Mr. Azzolina explained that within that subdivision there is a five foot shade tree easement that is the area in which shade trees were to be planted. It is actually about 15 feet behind the curb, because you have the right-of-way line, which is basically 10 feet behind the curb, and then another five feet behind the right-of-way line that is the area which the trees were to be planted. The trees were actually planted within this subdivision. The ones that are there were planted three or four years ago. Some of them did not survive so they are not uniform throughout the subdivision, but that was something that Kevin did not necessarily have a problem with. He is not necessarily looking for more trees. Mayor Romeo asked if the town put the trees in. Mr. Azzolina noted that the developer put them in. Mayor Romeo asked how moving the wall would impact the existing trees. Mr. Azzolina noted that it wouldn't impact the trees because there are no trees, but there is a section in our code that states that nothing shall be placed, no permanent structure shall be placed within the easement. But what Mr. Lorenze is proposing is to place a portion of a structure within a portion of that easement, which would most likely not impact any trees in this immediate area. You could most likely plant around it. The biggest question is whether this is something that the Board would entertain. It is something that he had suggested. If you look at his memo, he wondered if the applicant had investigated any alternate methods. They are proposing a dry-laid boulder retaining wall, which is a significant width because you need massive rock to retain the earth so he had inquired as to if alternative types of systems had been proposed. There are different ways of approaching this, but this is certainly one method they had discussed preliminarily to construct a terrace wall, two three-foot walls as opposed to one six-foot wall.

Mayor Romeo asked Mr. Azzolina if he was OK with this. Mr. Azzolina didn't see any big issues related to encroaching upon the easement in this location just so long as they are not creating a precedent that would allow others to do it. Mr. Morgan asked how much of the easement they would be using. Mr. Azzolina noted that that hasn't been defined yet. They haven't seen any plans. He will let Mr. Lorenze comment on that. Mr. Lorenze noted that they looked at intruding anywhere from two to two-and-a-half feet into the easement with a wall, at this point undetermined as to the material. From his personal opinion, the two walls would be more aesthetically pleasing than one six-foot high straight wall. Once it is planted, it would look fine. Councilman Brennan asked what the distance was edge to edge between the two terraces. Mr. Lorenze noted it was probably about three feet, enough to put some nice plantings in there. Mayor Romeo commented that they would actually be hiding the upper wall. Mr. Lorenze noted that with mature plantings in the lower bed area, the upper wall would be kind of concealed, depending on

the kind of plantings that you put in there. Mayor Romeo noted that he was more in favor of that only because he doesn't want to see a six-foot wall. Mr. Azzolina agrees with that.

Mr. Azzolina stated that the proposal as it is presented is not going to be six feet for the entire length, meaning that the wall moderates in height. It starts out at about two feet, works its way up to about four feet, then there is a section where it is six-feet high for approximately 55 linear feet, based on his scaling of Mr. Lorenze's plans. The overall length of the wall is about 130 feet. Fifty-five feet is the center portion of the wall that is between four and six feet tall. Anything over four feet tall would require a variance because it is situated in the front yard area. If it were behind the setback line, it would be permissible. The fact that it is the front yard area, it necessitates the variance.

Mr. Lorenze noted that at the closest point to Vaccaro Drive is where it is six-feet high. That is the area where they would cut it down. Mr. Vaccaro noted that she had a neighbor speak to him saying that she was concerned about the line of sight at that corner. He wanted to know if this was going to affect it in any way. Mr. Lorenze didn't think so. He looked at that today. As far as the sight distance for traffic, he doesn't think it will affect it at all. Mayor Romeo noted that it would affect it a lot less if it was three feet instead of six feet. Mr. Lorenze noted that with the three feet it is moved out a little further, but it is only three feet. If it did intrude on the sight triangle, they would then make it two feet, because you are allowed a maximum of 24", so they would make the front one two feet and the back one four feet. Mr. Azzolina noted that that was one of the comments in his report, as well, was finding the sight triangle easement at that corner. That would be one of the things that they would be required to establish would be a sight triangle easement on this property. As Mr. Lorenze pointed out, the maximum height of anything within the sight triangle is 30", so you would probably do a two foot or a two-and-a-half foot wall at the lower end so you are not violating that statute and the greater height in the back wall.

Councilman Brennan would rather see three feet in the front wall if you are not intruding on the triangle to keep it uniform. Mr. Lorenze doesn't think they would be intruding on the sight triangle. Mr. Morgan asked how far the wall would be from the street. Mr. Lorenze noted that right now it is right at the end of the easement, which is five feet off the right-of-way or fifteen feet off the curbline.

Mr. Galdi made a motion to approve the terraced wall which would look a lot better, with the consent and approval of the Police Department and the Borough Engineer and that it doesn't fall into obstruction of vision. Mr. Lorenze noted that they will provide information to address that. Mr. Schuster asked what the grade of the midline of the road as it pertains to the average grade of the property. Is the wall going to be three off the grade of the property, which is higher than the roadway? A three foot wall is still going to have an impact if the grade is higher. Mr. Azzolina noted that Truman Drive is ascending as you head in a northerly direction from elevation 408 and goes up to elevation 416ish at the northerly limit of the subject property. The bottom of the wall, according to this design is at 414 as compared to the 408, but he is transitioning down to the existing grade at the curbline which is that same 408 elevation. It is relatively flat in that area. He doesn't believe there will be any sight line obstructions created by a wall in this general location. He did recommend that they also defer to the Police Department for their confirmation, but just looking at this proposal, since it is so far behind the curbline, he doesn't believe there will be any negative sight line implications and that would be something he would look at during the construction as well to confirm it. Looking at it on paper, he doesn't see any negative sight line impacts.

Mr. Galdi stated that his motion still stands providing that he gets approval from the police that there won't be any problems.

Mr. Lorenze stated that there are a couple more items in the engineer's letter that he thinks he should address. He showed the plan that they came to the Board with for the soil moving application. They had a driveway that ran from Vaccaro to Truman in front of the house. The grade of the house was changed and approved so that the one section of the driveway became so steep that it would not have been practical to utilize it. To address that issue, a new plan was developed where the driveway would come up in front of the house but not go through to Vaccaro. This would be, in essence, a turnaround. In Mr. Azzolina's letter he states that a car could not make a single uniform turn in that area. They realize that, but because the house is there already, it is proposed to be like you are driving up to a garage and you

are going to have to make a K turn in front of the house, and there is enough room to accomplish that. Mr. Galdi noted that that is a better option.

Mr. Lorenze stated that the other item is the stormwater management, which Mr. Azzolina states there is more impervious area which they are going to have to account for. Mr. Lorenze noted that they will do that. The impervious is increased by about 2800 square feet. Mr. Azzolina noted that the built in design for the subdivision is 10,000 square feet of impervious coverage. They exceed that by 2800 plus or minus, so they are providing supplemental drainage facilities in the form of three seepage pits on this property. He has asked for calculations to substantiate that that is a sufficient number, but it is fairly common throughout the subdivision. He has not exceeded the impervious coverage, only the 10,000 square feet limitation that the drainage system in the subdivision can support.

Mr. Azzolina asked Mr. Lorenze about the circular area in the center of the turnaround area. He wants it confirmed that there are no 18 foot tall statues proposed in the middle. Mr. Lorenze noted that it is going to be the same material as the driveway but maybe a different color. If it is pavers, it will be a paved circle.

Mr. Galdi restated his motion, subject to the Police and Borough Engineer's approval. Mayor Romeo confirmed that they will come back with a two foot wall and a four foot wall or a three foot wall and a three foot wall. Mr. Lorenze noted that they will look at it and plot out a profile and see which fits in there best. If there is a sight distance issue, that would determine how high the lower wall will be.

Mr. Galdi asked Mr. Azzolina about the stormwater management and if it was sufficient and if there was an overflow to a catch basin. Mr. Azzolina noted that there will be an overflow. That is one of the items that he has requested. Whether it is sufficient or not, he can't say yet because he hasn't received the calculations. That is one of the items in his report. The last item that wasn't covered is that he recommended that a guide rail, or other suitable barrier, be placed along the limits of the driveway where the retaining wall heights were six feet and now are going to be assumably four feet or there abouts. Even with the height of four feet, he would still recommend that something be placed along the top of the wall to prevent the vehicle from traversing the wall. Mr. Lorenze had no problem with that.

Mr. Schuster clarified that there is going to be an incursion in the easement. Mr. Lorenze confirmed that and stated that it will be between two and two-and-a-half linear feet. He showed this distance to Mr. Schuster on the plans. He noted that the lower wall would not be as long as the upper wall.

Mr. Schuster stated that we should pass a resolution for the purpose of indicating the fact that he is not going to get a variance because he has changed the plans so he doesn't need one and there should be a memorialization somewhere that he is going to be permitted to encroach in the easement. Mayor Romeo asked if this had to go to the Council for a vote. Mr. Lorenze noted that this is not a utility easement. It is strictly for shade trees. Mr. Azzolina noted that within this subdivision and some other ones in town, they created a separate shade tree easement, five feet in width, that runs parallel and coincident with the right-of-way line. Mayor Romeo stated that chances are the DPW would not need access to this. Mr. Azzolina agreed. Mr. Morgan asked what would happen if they would and who would be responsible for that wall in case they did have to go in there. Mr. Azzolina noted that this easement is strictly for the planting and maintenance of shade trees. By placing this small structure in this easement there are no maintenance issues associated with that. Mr. Lorenze noted that there is no infrastructure impacted by this wall. Mr. Schuster stated that if they are going to be in the easement, if the town should need access for any reason, they will have to remove the wall. Mr. Lorenze agreed, but stated that he could not see any reason why that would happen. Mr. Schuster just wanted him to be aware of that, no matter how unlikely that might be.

Mr. Galdi stated that because of the unique position of this property and the topography, he makes a motion to let them go into the easement to put the wall and instead of one wall, it is being cut down to a terraced wall, which would give it a better appearance, better aesthetics and everything else and it is subject to the Borough Engineer's final review and the Police Department's approval of this proposal. Councilman Brennan seconded the motion. On Roll Call: Mayor Romeo, Councilman Brennan, Mr.

Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Mozur, Mr. Laurita and Mrs. Schultz all voted yes. Motion approved.

Mr. Schuster informed the applicant that they need to submit the affidavit of mailing. They need to submit it within seven days or the case is dismissed with no approval.

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New Business

None.

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Other Business

None.

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Mr. Vaccaro opened the meeting to the public. No public wished to be heard.

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Motion was made by Mr. Galdi to adjourn the meeting at 8:24 PM, seconded by Mrs. Schultz. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for Tuesday, February 9, February 23, and March 9, and March 23, 2010, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary