

MINUTES

CRESSKILL PLANNING BOARD

MARCH 23, 2010

Mr. Vaccaro called the meeting to order at 7:43 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

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

Mr. Galdi made a motion to approve the minutes of the March 9, 2010, meeting. The motion was seconded by Mr. Vieni. All present were in favor of the motion. Motion approved.

Correspondence

Application for Soil Erosion and Sediment Control Plan Certification for 39 Broadway. File.

Letter from Schwanewede/Hals Engineering to the Borough of Cresskill dated March 17, 2010, regarding a NJDEP Flood Hazard Area Verification & Individual Permit for the Borough of Haworth Public Library Addition. The letter is to formally notify the Borough of Cresskill that the Borough of Haworth is currently applying for a Flood Hazard Area Verification and Individual Permit and a Freshwater Wetlands Transition Area Waiver from the NJDEP. This is for the construction of a building addition to the existing public library building within the riparian zone and freshwater wetlands transition area associated with Kips Brook. File.

Notice from the New Jersey Planning Officials about the State Planning Conference on April 23, 2010, at the Woodbridge Hilton Hotel. File.

Notice from the New Jersey Institute for Continuing Legal Education regarding the Municipal Law Diplomate Certification Series. File.

Letter of Denial from Mr. Edward M. Rossi, Construction Official, dated March 23, 2010, regarding 73 Magnolia Avenue, Mr. Roy Landis. This is before the Board for approval to install solar panels on the lower roof of his home. According to the plans, all photovoltaic work will be installed in accordance with NEC section 690 and has been approved by the electrical sub-code official. Mr. Schuster noted that this is either a construction issue or a variance issue. There was some question as to if this should be before our Board. Mr. Galdi feels that they should mandate these people that are putting solar panels up to put some sort of a notice on the front of the house, because a fireman going out can get electrocuted. Mayor Romeo noted that Dumont has an ordinance for solar panels. There has to be something where the Fire Department has to be notified. Mr. Azzolina stated that he will look into it. He noted that usually the DCA has model ordinances for towns.

Mr. Vieni asked that we also look into the geo-thermal heating, because that is going to be the next thing that is going to come up.

Mayor Romeo noted that this is before us because there is something that should be added for the safety of the firemen. As long as it is not too high and it is not too heavy for the roof, we have to allow it. But there should be

something there that the firemen have to have, some sort of warning, so that when they go there, they are aware of the danger. Mr. Galdi suggested that the ordinance be reviewed by the Borough Engineer and the Borough Attorney. Mr. Vaccaro noted that there is an ordinance in Dumont and he would like to send this back to the Construction Official and tell him that it is subject to the passing of the ordinance.

Subdivision Committee

Councilwoman Tsigounis had nothing new to report.

Report from the Borough Engineer's Office

Mr. Azzolina reported that he received revised plans for Application #1398, 144 Truman Drive, Song, c/o Kulick Development. They were revised per his verbal communications with the engineer and the builder. They did not submit the revised plans to the Board. This revision date is March 5, 2010. The preliminary finding he had is that they did not identify a variance condition. It is a corner lot so it has two front yards. They initially had, what he is saying is the rear yard, labeled as a side yard, which it does appear as a side yard on the subdivision plat for the Tamcrest Subdivision, Tamcrest Hills, but the orientation of the house would have been along Truman Drive. They are reversing it so that it fronts on Pendergast. He is saying that the rear yard would be opposite the front door, as we historically apply the zoning criteria, and by that fact, they require a rear yard variance. The zoning table reflects that variance. He reviewed the drawings and prepared some comments. Mr. Vieni asked how far the neighboring house was. Mr. Azzolina reported that they are showing that house to be 73 feet from the property line and the dimension to the back of the home is 46.3 on this property.

Mr. Azzolina noted that basically they had a number of technical comments, but the plans as presented are sufficiently complete for the Board to entertain a hearing on the application. This requires a public hearing because of the variance condition. The other comments that he has enumerated in his report dated March 23, 2010, are essentially technical type of additions to the plan. The primary aspect is the variance condition. Mr. Azzolina informed the Board that this property was first before the Board about four or five years ago with a different owner. For whatever reason, they did not go through with the development. He noted that the lot sat fallow for four years or so. These plans were initially submitted in February and this is the first time he is discussing this with the Board.

Mr. Galdi made a motion to schedule a Public Hearing for April 13, 2010. Mr. Morgan seconded the motion. All present were in favor. Motion approved. Letter sent to Mr. Manfredonia informing him of the Public Hearing date.

New Business

None.

Public Hearing – Application #1396, 187 Broadway

Mr. Vaccaro opened the Public Hearing for Application #1396, 187 Broadway. Mr. Michael Hubschman was present representing the applicant, Mr. Frank DeCarlo. Mr. Hubschman, 263 S. Washington Avenue, Bergenfield, was sworn in by Mr. Schuster. Mr. Hubschman was deemed an expert licensed professional engineer and planner. Mr. Schuster noted that as a technical matter, he doesn't have the affidavit of mailing and will need that before he presents the resolution. Mr. Hubschman agreed to that.

Mr. Hubschman noted that they are here to redevelop an existing single-family lot. It was owned by Mr. Pressler. Mr. Frank DeCarlo is developing the lot and he has developed other houses in town and is a resident. The lot is on Broadway across from Willow Run. It is a 55 x 141 foot lot. There is an existing single-family dwelling on it. The existing house is situated two feet from the westerly property line. They are proposing to remove that existing house and construct a small house, a 1,300 square foot footprint house, on the property. Because they are in the 10,000 square foot zone, they are here for a hardship variance. They need side yard variances because they need a 35 foot total side yard and they really couldn't build a 15 foot wide house. Ms. Stephanie DeCarlo designed the house. It is 30 feet wide at its widest point and the remainder is about 28 feet wide. It is a little narrower in the rear. It is a three-bedroom house, with the garage under.

Mayor Romeo asked if the garage was going to be underground or under the house on the first floor. Mr. DeCarlo noted that they are going to dig down. He stated that the existing house has a basement now that is about four feet below grade. Mr. Hubschman noted that the property is low in the back and they are going to sort of level out the lot. Mr. Galdi asked if it was going to create any problems by leveling out the property for the people next door. Mr. Hubschman stated that it wouldn't because they are proposing a wall and they are grading it out.

Mr. Frank DeCarlo, 376 12th Street, Cresskill, was sworn in by Mr. Schuster. Mr. Hubschman explained that they are proposing a small house in keeping with the rest of the block. They are all 40 and 50 foot lots on the block and there are a few houses that have been redeveloped. It is a unique area. They are across from a retail establishment and next to a condominium.

There are some interesting questions that Mr. Azzolina had raised. When Mr. DeCarlo bought the lot, the title search showed an easement going out to County Road. They couldn't find anything that said it is an easement for a sewer or anything. The only thing that he is kind of speculating is that it has something to do with the stairs and maybe there was a walk that went back there. He has the final plat and after looking at it more closely, that little piece is actually a lot that is owned by Mr. Pressler. It is shown on the tax map as a separate lot. It showed up on the property owners list. He guessed that that was part of his property but it was never turned over to Mr. DeCarlo. Mr. Hubschman noted that this property does not touch County Road. It is 2 ½ feet off of County Road. There is this little piece of property that was never transferred to Mr. DeCarlo. Mr. DeCarlo thought that it probably should have been transferred to him, but evidently Mr. Pressler still owns it. They did notice Mr. Pressler and he did sign the notice and return it. This little piece of property is six feet along the easterly line and 10.62 along the southerly side.

Mr. Hubschman noted that another item that Mr. Azzolina brought up was that Mr. and Mrs. Chung, who live next door, have their driveway that encroaches two feet into this property. Mayor Romeo asked how far away the condos to the right were. Mr. Hubschman noted that the condos are 15 feet from the property line and they are 11 feet from the property line. On the other side, the house is seven or eight feet and they are proposing 11 ½. Mayor Romeo asked Mrs. Chung if she could get into her driveway if she didn't have the two feet that was on Mr. DeCarlo's property. Mrs. Chung noted that she could not. Mr. DeCarlo noted that she would have a six foot driveway if the two feet were taken away and it would really create a problem for her. Mr. DeCarlo noted that they are proposing to leave the driveway, not touch it, and swale around it a little bit, and then maybe talk to an attorney about setting up a license or something to allow them permission to use that property until it is redeveloped in the future.

Mayor Romeo asked how you would convey that so that when you sell the house to somebody they are aware of the situation. Mr. Schuster noted that a license is a temporary right to use it. An easement is a permanent right to use. Mr. Hubschman and Mr. DeCarlo both agreed that a license would be what they want until the Chung's property is redeveloped. Mr. Laurita asked how they found out about this. Mr. DeCarlo found out when they did the survey. Before that, nobody knew. They assumed that the driveway was the property line. Mr. Schuster noted that they may have an adverse possession issue. Mr. Hubschman doesn't know how long they have owned the property. He noted that they would let the lawyers handle that issue. Mr. DeCarlo agreed that the lawyers should handle this. Mayor Romeo asked Mrs. Chung if she planned on redeveloping the property in the near future. Mrs. Chung noted that she did not.

Mr. Gu Gyun Chung and Ms. Kyung O Lee (Chung), 183 Broadway, Cresskill, were sworn in by Mr. Schuster. Mayor Romeo was concerned about how you sell the property with the driveway like that. Mr. Laurita stated that

there would have to be a legal agreement that if their property were ever sold, that you are giving them permission for it to remain in that condition right now. Mr. Hubschman agreed. The buyer of the house that Mr. DeCarlo builds will have to be put on notice that they are allowing the two foot encroachment. Mr. DeCarlo noted that it will have no impact on his building. They have gone ahead and designed around affecting the neighbor. They are proposing a wall on that side to leave the two foot driveway alone. There will be a nice little two foot retaining wall following their driveway and the new house will be built nine feet from the wall, but eleven feet from the property line and any new prospective buyer that will purchase the house is going to see the house and will understand it and it will be explained to them and there will have to be an agreement between the buyer and the neighbor. Mr. Schuster stated that there are different ways to do it and it is a matter of paperwork. Mr. DeCarlo noted that he is allowing Mrs. Chung to leave the driveway on his property.

Mr. Schuster thinks that the easiest way to do this is to give them an easement on the property with a right of reverter so that they have a right to go on the property, but Mr. DeCarlo still owns the property, and once there is ever a redevelopment of the property next door, the easement would be extinguished. That is his suggestion. He can put that in as a condition of the approval.

Mayor Romeo stated that they are asking for two eleven foot side yards, no FAR, no height, no impervious and no other variances. They are just basically moving the house to the center of the lot and asking for the side yard and the total side yard. Mr. Azzolina stated that there are other existing non-conformities associated with the lot. Mr. Hubschman noted that they are in the 100 x 100 foot zone and the existing lot is only 55 foot wide, which is an existing variance. The wall is going to be five foot high for only about four or five feet in the front yard, which might be a variance. Mr. Azzolina explained that the limitation in the code is retaining walls can't be higher than four feet within the front yard area. Mr. Galdi asked if they could lower the wall. Mr. Hubschman noted that they need the five feet. It won't affect the line of sight at all. It is five feet from grade down.

Mr. Schuster went back to the driveway and noted that if you own the property and give an easement right, it helps them out with the FAR requirements, because otherwise, if it is someone else's property, they don't get to use that for purposes of FAR. Mr. Hubschman noted that it is about 80 square feet and they are still 1% under.

Mayor Romeo asked what the house was going to look. Mr. DeCarlo noted that they are planning something a little more contemporary, a little more modern, not so typical siding wise. It will blend in with the neighborhood. The roof has a 3-12 pitch, which is not a steep roof. The total square footage is about 2,500. It is narrow in the front and narrow in the back. The house is about 51 feet deep overall. Mr. Azzolina stated that he complies with the sliding scale on the FAR and impervious coverage.

Mr. Vaccaro asked Mr. Hubschman if he reviewed Mr. Azzolina's report. Mr. Hubschman noted that he will comply with everything in his report. The two main items were the driveway and the rear portion. Mr. Azzolina noted that he is satisfied with Mr. Hubschman's testimony. He needs some clarification relative to the size of the seepage pits. That can all be worked out and just to reiterate, he believes the retaining wall variances are de minimus because he believes it is going to step down from the five foot height to a two-and-a-half or three foot height and the blocks are 18" long and 8" high. They will probably do three courses of block and then step it down 8" so it will only be five feet high for about a maximum of 4 ½ feet. Mr. Galdi asked about the hydraulic pressure behind the wall. Mr. Azzolina noted that he has asked for stability calcs, pending the Board's favorable action on the application. That will be looked at. He feels that is a de minimus variance if the Board were to approve it.

Mr. Galdi asked if there was a place to put an overflow on the seepage pits, because they look kind of small. Mr. Hubschman noted that they added a second pit in the rear as their overflow. The nearest catch basin is 200 feet away, so there was no way to really connect to the town's drainage system. They have a seepage pit for the driveway and a sump pump overflow that will pump to the rear. They will do a visual inspection and a perc test when Mr. DeCarlo is doing his construction to make sure everything is as it needs to be.

Mayor Romeo asked how old the house is. Mr. DeCarlo thinks it was built in the 1930s.

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

Mr. Schsuter asked what impact this would have on the neighborhood. Mr. Hubschman noted that there is no negative impact on the neighborhood. They are removing a blighted area, adding drainage, adding a new home and all the lots are 40 and 50 foot lots. It is not overbuilt and they are under the coverage. There is no detriment to the zoning plan and it provides light, air and open space to the neighbors.

Mr. Galdi made a motion to approve, subject to Mr. Azzolina's final review and the easement issue for the driveway. The motion was seconded by Mr. Laurita. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Mozur, Mr. Vieni and Mr. Laurita all voted yes. Motion approved.

Old Business

None.

Other Business

None.

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

Motion was made by Mr. Galdi to adjourn the meeting at 8:31 PM, seconded by Mr. Morgan. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for April 13, April 27, May 11, and May 25, 2010, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary