

# MINUTES

## CRESSKILL PLANNING BOARD

OCTOBER 27, 2009

Mr. Vaccaro called the meeting to order at 7:37 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, Ms. Tsigounis, and Mrs. Schultz. Also present was 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 October 13, 2009, meeting. The motion was seconded by Councilman Brennan. All present were in favor of the motion. Motion approved.

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### Correspondence

Letter from Mr. David M. Watkins confirming the Public Hearing scheduled for October 27, 2009 for Application #1389, 180, 188 & 198 Truman Drive, Rio Vista LLC. File.

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### Subdivision Committee

Ms. Tsigounis noted that no new applications were received.

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### Report from the Borough Engineer's Office

Mr. Azzolina noted that Application #1390, 52 Westervelt Place, Greg Hagopian, is currently under review.

The applicants for Applications #1386M, 1387 and 1388 are not present today for the public hearing. Mayor Romeo asked about these applications and if this was for three lots. Mr. Azzolina clarified that #1386M is for a minor subdivision that has variances, therefore, it is a major subdivision, whereby they are combining the two properties to create two 50 x 100 foot lots. The "M" is the subdivision application, the two separate applications, 1387 and 1388, are the site plan applications for the single family homes that are proposed on each of the proposed lots. Mr. Azzolina noted that he received an e-mail from their engineer indicating that their attorney is going to request a public a hearing on November 24 for this application. Mr. Galdi made a motion to schedule the Public Hearing for November 24. The motion was seconded by Mr. Morgan. All present were in favor. Motion approved. Letter to Mr. Alfonso Diaspara informing him of the public hearing date.

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**Old Business**

None.

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**New Business**

None.

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**Public Hearing – Green Acres Open Space and Recreation Plan**

Mr. Michael Hakim was present and informed the Board that this is a Public Hearing for modification of the Cresskill Master Plan, specifically, Chapter 4.2, the New Jersey Green Acres Open space and Recreation Plan. It has been duly advertised in accordance with law. The document has been at the Borough Hall for the statutory amount of time for review. It is an update from the document that the Board adopted initially in 2004 as the Open Space and Recreation Plan. It was then, in approximately 2004, added as an element of the Master Plan. The Borough has been awarded five different installments on our planning incentive grant through the Green Acres program. We have collected monies on four of those installments. We have a half million dollars which we have not identified property to use it on just yet. This has been a program which has been quite beneficial for everyone. In order to qualify for this program you need your open space tax, which we have, and you needed this Green Acres approved Open Space and Recreation Plan.

What happened after they announced this latest installment of \$500,000 is they notified us that 2004 was an old enough document and it needed to be updated. What we have done with this document, which is dated revised July 17, 2009, is it takes the 2004 document and brings it up to 2009 standards. Mr. Hakim noted that the changes are very minor. It is not changing any of the philosophy or any of the positions or policies of the municipality. The changes are, because we have been as successful as we have been, we have dwindled the pre-approved properties that we haven't purchased down to very few. It is time to add some new properties, candidate properties, that would just expand the inventory of properties that you have to select from to use your open space monies to purchase. The other things that were updated were just taking properties that were wish list properties in 2004 that we have now purchased and putting them in the other category and just kind of updating everything to 2009. The nine properties that have been added were coordinated through Mr. Vaccaro, Mayor Romeo and the Council, and Mr. Hakim and are included in the back map of the document. When you look through it you will see it was not done just by Mr. Hakim's office, but they were coordinated through Council and at least through this Board's chair and that is really all the changes.

Mr. Galdi asked if it would be beneficial to the Master plan. Mr. Hakim stated that it absolutely would. Mayor Romeo noted that some of the properties were taken off because we have bought them and others have been added on because of their location and we are trying to recapture housing that borders on some of our properties. Mr. Hakim agreed. He noted that, just as an aside, the last Master Plan that we adopted was in 2004 and the Municipal Land Use Law has a six year maximum time statute, so by November 2010 we need to do another one. The action for this evening is simply this one Chapter 4.2 New Jersey Green Acres Open Space and Recreation Plan. Mr. Hakim noted that if we ask Green Acres for that last \$500,000, they are going to want to know where this updated plan is.

Mr. Vaccaro opened the meeting to the public. No public wished to be heard. Mr. Galdi made a motion to close the meeting to the public, seconded by Councilman Brennan. All present were in favor. Motion approved.

Councilman Brennan made a motion to approve the Green Acres Open Space and Recreation Plan. Ms. Tsigounis seconded the motion. On roll call: Mayor Romeo voted yes and recommended that we pass this. He stated that we have been very successful getting this grant money and this will enhance getting even more so we can get some more green space. Councilman Brennan, Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Mozur, Ms. Tsigounis and Mrs. Schultz all voted yes. Motion approved.

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**Public Hearing – Application #1389 – 180, 188, 189 Truman Dr., Rio Vista LLC**

Mayor Romeo, Mr. Galdi and Mrs. Schultz recused themselves from this portion of the meeting.

Mr. David Watkins, with offices in Closter, was present representing the applicant. Mr. Robbins, is the owner of Rio Vista LLC, the owner of the property and he is here tonight so he can hear what is going to transpire. The application before the Board tonight is solely and exclusively to advise the Board that he is going to consolidate the lots into one large lot. The function of the development of that property is really not within the jurisdiction of this Board, it lies with the Zoning Officer and the Building Department. Under Section 234-9d, he is here merely to advise the Board and to put on the record the consolidation of those lots itself. He has a representative of McNally Engineering here. He also stated that he did, in earnest, meet with the neighbors more than once. If you put five people in a room, you can probably satisfy three, but you are never going to satisfy five. Devoid of leaving this property as parkland, which they will not do, what they are prepared to do, and he did tell some of the neighbors that he will put this on the record, that when they obtain their building permit for the subject site, they will entertain, if they can from an engineering standpoint, to remove one of the proposed driveways on the residential structure. They also have agreed to retain a landscape architectural firm, and they have agreed that what they will do is increase the buffer off of the roadway as best as they can to diminish and minimize the visual concept of the properties as the neighbors would look across the street at it. Mr. Robbins is committed to work with the neighbors as best as he can to satisfy the concerns that they may have during the developmental process. Unfortunately, as he said in his opening statement, you can never satisfy everybody.

Mr. Schuster clarified that this is just for information purposes and we are here today just to readjust the lot lines. The other information is just for information purposes only in the event the application was to proceed a different way.

Mr. Watkins called his witness, Mr. Douglas Doolittle, 31 Malcolm Place, Mahwah, New Jersey. Mr. Doolittle testified last time and was accepted as an expert and his license is still in good standing. Mr. Watkins asked Mr. Doolittle to describe to the Board what the purpose and intent behind this application is. Mr. Doolittle noted that the intent is to take the three lots that exist in Cresskill known as Lots 23, 24 and 25, and take the two lots lines that are there and remove them to merge the lots into one lot that is a little bigger than a three acre piece. Mr. Watkins asked if that three acre piece complies in all respects with the Zoning Ordinances in Cresskill. Mr. Doolittle noted that it does. Mr. Watkins asked if there was a house constructed on that property, if the intent would be to comply with the Zoning Ordinances of the municipality. Mr. Doolittle agreed. Mr. Watkins noted that if they didn't they would have to come back to a Board for variances and they understand that. Mr. Doolittle noted that that is correct.

Mr. Watkins asked what the current size of the property was. Mr. Doolittle noted that the current size is 3.06 acres. It is 133,644 square feet, 3.068 acres. The requirement in this zone is 40,000 square feet in the R-40 zone. Mr. Watkins stated that the applicant is proposing to take three lots, merge them into one and that lot would have an area of 133,644 square feet. Mr. Doolittle stated that that lot fronts on an improved roadway. That roadway is Truman Drive. Mr. Watkins asked if there were any other roadways that would be contemplated as a result of this merger of lots. Mr. Doolittle stated that no there aren't. Mr. Watkins concluded his questioning of this witness.

Councilman Brennan confirmed that it is one continuous piece of property and that this is solely for lot consolidation. Mr. Watkins confirmed that that is correct.

Mr. Vaccaro opened the meeting to the public. Mrs. Mary O’Gorman, 179 Truman Drive, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mrs. Gorman noted that she is not familiar with all the legalities of this. She has some questions because the last time they came there were some loose ends as to not only the subdivision and now the erasing of the lines but also the structure that is going to be put on it. Are they separated? Mr. Watkins noted that they are two separate distinct activities. Mrs. O’Gorman wanted to know if when the structure is submitted to the town, will that structure be required to fulfill all of the zoning rules and regulations that everybody else will and if it should have anything unusual in it, like a hockey rink or something that does not fit the Borough’s rules and regulations, it will be not allowed. Mr. Vaccaro noted that the Zoning Official reviews the site plan. We have nothing in our code that says you can’t put an ice skating rink in it. Mr. Schuster noted that we are just here to basically get out an eraser and change the lot lines. That is all we are talking about here. Once that happens, he would suspect that the applicant is going to make an application to the Construction Official and he will review it and make his recommendation about whether or not any additional action is required by the Borough.

Mrs. O’Gorman wanted to just put on record her feelings so that she is expressing her thoughts. Mr. Schuster explained to Mrs. O’Gorman that we are really here for the limited purpose of determining or not that these lots are going to be consolidated. We are not going to be discussing, except in a very general sense, anything about what is going to be developed on that property. Mrs. O’Gorman stated, just to reiterate her understanding, because she has taken a lot of time in reading over the ordinances and articles of the town of Cresskill and it is her understanding that Cresskill has a code in Chapter 275, Article 4, Section 275a, which is very clear in stating that in an R-40, R-15, and R-10 one family residential zone, no building or premises shall be used and no building or part of the building shall be erected or altered which is arranged, intended or designed to be used in whole or in part for any uses except the following: a one family detached dwelling not to exceed one dwelling per lot. It goes on to say that there are exceptions to that where you are allowed home office use, accessory use of your dwelling, but those uses are pretty specific in that you can have a home office, you can have a professional office for a studio or a lawyer, but it can’t be more than 50% of the square footage. You can have a dance studio but you cannot hold large groups of people there to dance. It has to be limited. You can have a garden house, a tool house, a greenhouse, you can even have a swimming pool, but all these things are incidental to the residence. You can have a private garage, you can have domestic animals as long as they are for pets only, you can have signs on your lot, but nowhere does it say, or give permission, and it says the purpose is limited to those uses. She wanted to go on record as stating that. She wanted to know if the Zoning Officer is bound by the laws that she just read. Mr. Vaccaro noted that he is, but if you read those laws specifically, it says nothing in there that you can’t put in an ice skating rink.

Mr. Watkins interjected and said that this goes far beyond the direct testimony of his witness. It is really not for the prevue of the Board, it is the prevue of the Zoning Officer. Mrs. O’Gorman stated that she thinks this is part and parcel of why these people are here tonight. She knows what they are saying about the division and they want to limit it to that, but part of Cresskill is going to be altered if they don’t go by the rules on the books. Mr. Schuster noted that right now we probably have an idea of what is going to be happening there, but in one sense it could be a hypothetical case. He understands that she wants to make her comments public, but as for this application, we are really here to determine whether there is going to be a redivision of lots. We are not going to talk in any specific sense about what the proposed use is going to be because we don’t even know what that is going to be, although we have had some information in the past, but that is a different application and a different day.

Mrs. O’Gorman asked if with this new application, hypothetically, do they have to come before any kind of approval or can the Zoning Chairman just decide this is fine, and is he determining the laws correctly. Mr. Schuster noted that it is not the Zoning Chairman but the Construction Official and he is an employee and is specially trained for this purpose and that is what his function is, to review the applications and review the zoning codes and determine what approvals would be necessary to develop the parcel as somebody wants to develop it. Mrs. O’Gorman asked who the Construction Official was. She was informed that it is Mr. Ed Rossi. Mrs. O’Gorman asked if basically the next part of this process would go to him and it would be up to him. Mr. Schuster noted the presumably if the approval goes through tonight, there will be an application or an inquiry with him about the development of the parcel. It would be up to Mr. Rossi to

decide if he meets the laws or not. Mrs. O’Gorman asked if there was any public input when Mr. Rossi decides. Mr. Schuster stated that it is based on the application submitted. If he determines that there are municipal approvals made that require a Public Hearing either before this Board or the Zoning Board of Adjustment, of course that would take place at the appropriate time. If it doesn’t, it will be issued a building permit or whatever approvals he needs and is permitted to give by law.

Councilman Brennan explained to Mrs. O’Gorman that as far as the application that is before us tonight, there is one, and only one, thing that we can look at and that is the removal of those lines. Doing anything other than looking at the removal of those lines is not what is before the Board today. Mrs. O’Gorman understood that. She is just wondering about the next step and what the process is there and is the public allowed to get involved with that process if it is a little shady or a little confusing as to what a dwelling is in today’s day and age. Mr. Schuster noted that that is his job. Occasionally a circumstance will arise where maybe he will request an interpretation of some sort, but that is strictly hypothetical.

Mrs. Elaine Sokolin, 172 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. Mrs. Sokolin stated that since we are here only for the merger of the lots, why does he need the merge. The properties have been there for years and years. There were previous owners and it was never merged before. What is the reason now to merge?

Mr. Watkins wanted to place on the record something he found offensive from the prior person who just testified (Mrs. O’Gorman). She used the word shady. There is absolutely nothing that has gone on before this Board that would even remotely indicate that that process has taken place. As a matter of fact, he doesn’t even have to be here. He is here as a courtesy to the Board, as a courtesy to the neighbors, and he resents the fact, on behalf of his client, that people use adjectives and adverbs that don’t reflect this application or his client’s quality.

To answer Mrs. Sokolin’s question, the reason to merge now is because he wants to. Councilman Brennan stated that it is within his right. He owns the property and it is within his right to merge the properties without question. Mrs. Sokolin stated that there must be a reason. He has been living there for a few years. Mr. Schuster noted that there are a certain number of development reasons and there may be a monetary reason because basically by reducing the number of lots and making it one larger lot it reduces property taxes. But there may be other reasons. Maybe we will find out about them and maybe we won’t.

Mrs. O’Gorman just wanted to answer the “shady” comment. She did not mean to refer to the client as being shady, she was meaning that there was a gray area when one defined a dwelling and you can use lots of different definitions and it can be construed as being gray rather than maybe shady. Gray would have been a better word in what is allowed in a dwelling. Mr. Watkins agreed that gray would have been a better word.

Councilman Brennan made a motion to close the public portion of the meeting. Ms. Tsigounis seconded the motion. All present were in favor. Motion approved.

Mr. Vaccaro asked if they had any objections to the report from Mr. Azzolina. Mr. Watkins stated that they have no difficulty complying to the report from Mr. Azzolina dated October 27, 2009. He has reviewed it with the engineer.

Councilman Brennan made a motion to approve the application, seconded by Mr. Mozur. On Roll Call: Councilman Brennan, Mr. Vaccaro, Ms. Bauer, Mr. Morgan, Mr. Mozur, and Ms. Tsigounis all voted yes. Motion approved.

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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 8:13 PM, seconded by Councilman Brennan. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for Tuesday, November 10, November 24, December 8, and December 22, 2009, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary