

MINUTES

CRESSKILL PLANNING BOARD

OCTOBER 11, 2016

Mr. Morgan opened the meeting at 7:37 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call: Mayor Romeo, Councilwoman Tsigounis, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Moss, Mr. Ulshoefer, and Mr. Durakis. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Schuster, Planning Board Attorney.

Mr. Durakis made a motion to approve the minutes of the September 27, 2016, meeting. The motion was seconded by Mayor Romeo. All present were in favor of the motion. Motion approved.

Correspondence

Voucher from Steven V. Schuster for services rendered relative to the Cresskill Planning Board for the month of September 2016 in the amount of \$1,750.33. Mayor Romeo made a motion to approve, seconded by Mr. Moss. All present were in favor. Motion approved.

Letter from Mr. Michael J. Hubschman, Hubschman Engineering, dated October 5, 2016, regarding the Notice of Intent to File a Treatment Works Approval Application for Morningside Avenue Subdivision, 104 Morningside Avenue. This applicant is proposing to construct a sanitary sewer connection for two new single-family dwellings. File.

Letter from the Law Office of Mr. Mark D. Madaio regarding Application #1490, 182 4th Street, enclosing an Affidavit of Service, a copy of the tax lists, a copy of the certified mail receipts and a copy of the notice for a Public Hearing on October 25, 2016. Mayor Romeo noted that this is not going to be on October 25. It will probably not be until the second meeting in November. We just received the application.

Application for Soil Erosion and Sediment Control Plan Certification for the walking track on Third Street. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, sending Jin Hwan Park to this Board for Approval. He would like to use 92 Union Avenue to teach piano/violin lessons, violin repairs and sales. The owner of the building is Abrams and McKeever. Ms. Gerry D'Andrea was present representing Mr. Park. Ms. D'Andrea noted that the tenant would like to go in at 92 Union Avenue. It is 2,500 square feet. It is the first floor. There will be one piano. The violinist repairs violins and gives violin lessons and sells violins if he can't repair them. Mr. Schuster asked how many square feet. Ms. D'Andrea noted it was 2,500 square feet. There will be one piano studio and an open space to repair the violins and one room for violin lessons. There will be no signs, except they may have a little placard on the sign that is out there now. There is plenty of parking. Mr. Calder made a motion, seconded by Mr. Ulshoefer. All present were in favor. Motion approved. Letter of Approval sent to Mr. Jin Park, with copies to Ms. Barbara Nasuto, Mr. Rossi, the Police Department, the Fire Department and the Health Department. File.

Letter of Introduction from Mr. Edward M. Rossi, dated October 4, 2016, sending Mr. Ahmet Atlas and Ismail Sahin to this Board for approval. They would like to use 21 Union Avenue for their re-upholstery business where they repair sofas, chairs, etc. The owner of the building is J-Ann Ye LLC. This is the old liquor store. They repair chairs, curtains, sofas and stuff like that. They just do repairs, no retail. There will only be two people working there. They have parking in the back. Mayor Romeo explained that the back will be completely redone in about a year so they will have plenty of parking and will have a place to park their truck. Mr. Durakis asked about the signage. Mr. Atlas said the name of the business will be Northern Valley Upholstery. Mr. Schuster asked how much frontage they had. Mr. Atlas stated that the building is 16 feet wide. Mr. Schuster noted that they could only have an eight square foot sign. Mayor Romeo suggested that they get the rendering from the sign maker first and bring it in so they don't put it up and have to take it down. Mr. Atlas said that they just want to cover the existing sign. They already have a contract. They plan on moving in as soon as possible. Mr. Calder asked if it required people to bring the furniture to them. Mr. Atlas noted that it does and that they usually only work on one chair or one cushion. It is just the two of them. The trucks would be in the back. They are a very small business. It wouldn't be big trucks. He currently works in Long Island City and lives in West New York.

Mayor Romeo suggested that they make the front window look nice so it is inviting to people. Mr. Atlas agreed. Mr. Calder made a motion to approve, seconded by Mr. Moss. All present were in favor. Motion approved. Letter of approval sent to Mr. Atlas and Mr. Sahin with copies to Ms. Barbara Nasuto, Mr. Rossi, the Police Department, the Fire Department and the Health Department. File.

Copy of Notice to the Public that 15 Wakelee Drive Corp. (the applicant) is seeking subdivision approval to subdivide property at 182 4th Street, demolish the existing home and construct two new homes at a Public Hearing on October 25, 2016. This will not be the hearing date. Mayor Romeo explained that they have a 50-foot lot and a 75-foot lot on two separate deeds. What they want to do is make them two 62 ½-foot lots and tear down the old house and build two new houses. File.

Subdivision Committee

Councilwoman Tsigounis introduced Application #1490M, 182 4th Street, Joseph and Joan Fontana (owner), 15 Wakelee Drive Corp. (applicant), was received on October 7, 2016. It is currently under review.

Report from the Borough Engineer's Office

Mr. Azzolina noted that he is working on the Lee Application #1487, 182 Madison Avenue. He met with the homeowners before the meeting. Previously there were some issues with the architectural drawings that have been corrected. Now the site plan has had some revisions after the Board approved this in 2014. They are aware of what needs to be done. They should be in good shape for the next meeting assuming their engineer is able to revise the plan accordingly.

Mayor Romeo asked if they were going to put a slope on the roof. Mr. Azzolina noted that it is a built up roof to create a slope that is really not going to be perceptible from the roadway because it is behind the parapet. It is a very slight pitch to drain the roof. It has a hatch. Mr. Durakis asked if it was a snow problem. Mr. Azzolina noted that that is their problem. He will assume that the architects designed the structure of the roof such that it is able to support the weight. Councilwoman Tsigounis noted that we don't have an architectural review board so there is not much we can do. Mr. Azzolina noted that this is the same plan that was presented two years ago as far as the aesthetics of the house go. Councilwoman Tsigounis stated that it could be really nice. Honestly she wanted to do a flat roof but she was not allowed to do where her house is. Mr. Azzolina showed the architectural plans and pointed out the front of the house and roof. It doesn't require a Public Hearing because there are no variances being requested.

Mr. Azzolina noted that he is also working on Application #1489M, 46 Pershing Place. This is a major subdivision. We had this same application approximately 10 years ago under the ownership of Mr. Lee. It is essentially the same application. That application was withdrawn without prejudice according to the minutes. It is really the same application. He knows there was a discussion about the DeCarlo application with the res judicata. Mr. Schuster noted that if the application was withdrawn, there was no determination on the merits. That is different. On the DeCarlo application, on the other hand, as they pointed out, there was a jurisdictional problem because it wasn't properly noticed. They made the argument that it wasn't a valid hearing because it wasn't properly noticed.

Mr. Azzolina noted that this will be forthcoming and he will have a status at the next meeting as to the completeness. If it is a complete, he will recommend that a hearing be held on it.

Mr. Azzolina is also looking at the LaBelle application at 67 Phelps Avenue, #1485M. That application has areas that are termed "critical areas" per our code. There is a section in our code that was added about 10 years ago entitled "Critical Areas" which pertain mostly to steeply sloped areas. This property has that. The steep sloped areas may be underlain by rock. He is not sure. He recommended to them that they dig a few test holes to determine what the ground conditions are. They haven't done that yet and there is no absolute requirement, but he thinks it would be beneficial for the eventual builder on the property to know if he has a \$30,000 blasting foundation or a standard dig. They are looking into that. The one thing he wanted to discuss with the Board is if this is within our subdivision code. It speaks of these requirements. If you deviate from a zoning ordinance, it is a variance. This is a subdivision design standard so typically that is called a waiver. However, within the code it makes a reference to two variances being required. That is really the question. If they propose to deviate, are they going to be advertising it as a variance or as a waiver. The strict language within the code book, "application may seek relief from requirements by variance granted by the Planning Board." His understanding of the law is that any requirement that is other than zoning requirement is a waiver. Deviations from the zoning code are variances. Unless it was within the zoning ordinance, Section 275, then it would be a variance, but it is in the subdivision code.

Mayor Romeo asked what he thinks they would be asking for that would require it. Mr. Azzolina noted that per the code you are only allowed to disturb 15% within that steep slope area. With slopes from 15% to 25% you are only allowed to disturb 15% of the lot area. There is a formula that you apply so if somehow once they prepared a plan that said in order to put this size house on that property, they have to disturb 30% of that steep slope area, that would be the waiver or variance they are seeking. That is what is holding up this application. They didn't provide a complete plan. They just showed a line on the drawing that said they were subdividing this property. That doesn't address this. They have to prove that it is developable. Councilwoman Tsigounis agrees with Mr. Azzolina.

Mayor Romeo asked if they ever had this problem up on the hill. Mr. Azzolina noted that they did not. He believes that this ordinance was devised when someone was looking at the Merrifield property.

Councilwoman Tsigounis stated that in essence you are not even really waiving that. They still have the responsibility to accommodate the land for that type of disturbance, which is more substantial. Technically it is not really even a waiver. Mr. Azzolina noted that it would be a waiver if they didn't provide the information. The information requirement is a grading plan, a landscape plan, drainage design, all of which you don't typically do in connection with a subdivision application. He is going to have a Public Hearing no matter what because they are seeking variances for lot dimensions.

Mayor Romeo stated that it looks like at the top of the hill is a gigantic rock. Mr. Azzolina noted that his inclination is that there is rock directly below, which may not be catastrophic to them because that is not really where the building envelope is, but where the building is may also be underlain by rock. But you are building a house and you want to know if you have to blast out a foundation or not. That is why he strongly recommended that they do some test holes. This is deemed incomplete at this time. In response to his letter, they submitted something they are calling a grading plan, but there are no elevations. All they did was plopped a building onto the property but it doesn't tell you what the floor

elevations are, it doesn't tell you what the basement elevation is. He doesn't know what they have to do in the backyard area. He pointed out the area where Mayor Romeo was talking about. That is basically at the back corner of the house. They are going to have to disturb some portion of this hatched (on the plan) area. They need to comply with the requirements and ordinance that says they can only disturb 15% of the total lot area, so around 1,500 square feet of the steep slope, 15-25% range, can be disturbed. They need to do planning in order to demonstrate compliance with the ordinance. They can seek the waiver, but he would strongly recommend against granting that waiver, because now you are approving a property that then they will say that we approved it, so we are liable.

Mr. Azzolina spoke to their engineer today and he was going to talk to the property owner. There is a builder in the background here. He guesses that they were not wanting to spend the money that we would spend up front. On this particular application, he doesn't think there is any choice. Somebody has to step up.

Mr. Azzolina stated that on 51 Phelps, Mr. Lavon was instructed by the Board to make repairs to the wall. He repaired the wall to his satisfaction and to the neighbor's satisfaction. He was also directed to plant an evergreen at the one corner of the fence line, which he did. He hasn't heard from the neighbor so he will assume that he is satisfied with it. From his perspective, with respect to the neighbor's complaint, he has addressed what he had to address. There are certain other technical things that he needs to discuss with Mr. Rossi about the site proper. But with respect to the neighbor's property, he has conformed.

Old Business

Mr. Ulshoefer stated that we talked about having five to six subdivisions about six to nine months ago. There are three right here on this table, so there must be more than five or six subdivisions. Mayor Romeo noted that this one here was way out in left field. No one even thought about that because of the hill. The one of 4th Street he knew was coming for years because it has been on two deeds and has been waiting. Pershing has been here before and has been back and forth. That was not one he counted. As far as he knows, he doesn't think there is anything else. Mr. Moss asked if we approved them all. Mayor Romeo noted that the ones here right now haven't been approved. The only other one he knows about is Mrs. Massey's. She has two 100-foot lots. When the heirs come in to subdivide that, you have to give it to them. There will be two 100 x 100 lots. That is just a technicality. The girls don't want to insult the mother by selling it for smaller lots. Mr. Ulshoefer asked if anybody researches when people say they have two deeds. Mayor Romeo noted that he has seen the deeds on all of them except for one. Mr. Schuster noted that the burden is on the applicant to prove the two deeds.

Mayor Romeo noted that he has seen the deeds on the Fontana property. Mr. Fontana wanted the kids to buy the one lot and they never did so he built the pool. The builder is saying he won't do a 50 and a 75, but will do two 62.5s.

Resolution for Application #1484M, 177 5th Street, Frank DeCarlo, was introduced by Mr. Durakis, seconded by Mr. Moss. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Moss and Mr. Durakis voted yes. Mr. Mandelbaum was absent. Motion approved. The original resolution shall become a permanent part of these minutes.

Resolution for Application #1488, 51 Phelps Avenue, Kishkush, LLC, was introduced by Mr. Durakis, seconded by Mr. Morgan. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Moss and Mr. Durakis voted yes. Mr. Mandelbaum was absent. Motion approved. The original resolution shall become a permanent part of these minutes.

New Business

None.

Other Business

None.

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

Motion was made by Mr. Moss to adjourn the meeting at 8:22 PM, seconded by Mr. Durakis. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for October 25, November 1, November 22, and December 13, 2016, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary