

# MINUTES

## CRESSKILL PLANNING BOARD

NOVEMBER 12, 2013

Mr. Vaccaro 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. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mrs. Schultz, Mr. Vieni and Mr. Ulshoefer. Also present were Mr. 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 22, 2013, meeting. The motion was seconded by Mr. Morgan. All present were in favor of the motion. Motion approved.

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### Correspondence

Copy of Letter from Eastern States Environmental Associates, Inc., regarding 52 Grant Avenue, notifying the Borough that they are submitting an application to the NJ Department of Environmental Protection for a Letter of Interpretation which establishes the official boundary line of any regulated freshwater wetlands, open waters, or transition areas on the property, and if freshwater wetlands are present, identifies their resource value. The applicant is Mr. Michael Lam. Mr. Azzolina noted that he spoke to them a couple months ago and told them to go to the DEP first. The delineation shows that there are wetlands. They submitted to the DEP for a letter of interpretation. File.

Notice of Public Hearing for Application #1437 & 1438, scheduled for tonight. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction official, dated October 23, 2013, sending Mr. Mike Katznelson of 289 Brookside Avenue, LLC, to this Board for approval. He would like to construct a new single-family home at 289 Brookside Avenue. Application #1439 was received on October 28, 2013. It is currently under review.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated October 29, 2013, sending Ms. Christine Kerr, property manager of 100 Union Avenue, Devonshire Associates, LLC, to this Board for approval. A new tenant, Dr. Seth McGowan, would like to open a child psychiatry office at this location. Ms. Kerr was present. She noted that Dr. McGowan is already in town and just relocating to her building. He has lots of parking with five reserved parking spaces. Mrs. Schultz made a motion to approve, seconded by Mr. Galdi. All present were in favor. Motion approved. Letter of approval sent to Ms. Kerr, with copies to Ms. Barbara Nasuto, Mr. Edward Rossi, the Fire Department, the Police Department and the Health Department.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated November 1, 2013, sending Mr. Dave Patel to this Board for approval. He is the new proprietor of the Cresskill Tavern, 29 E. Madison Avenue. He plans on maintaining the business as it is, the only thing different is the owner. Mr. Galdi made a motion to approve, seconded by Mrs. Schultz. All present were in favor. Motion approved. Letter of approval sent to Mr. Patel, with copies to Ms. Barbara Nasuto, Mr. Edward Rossi, the Fire Department, the Police Department and the Health Department.

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**Subdivision Committee**

Councilwoman Tsigounis introduced new Application #1439, 289 Brookside Avenue, 289 Brookside Ave., LLC. This was received on October 28, 2013, and is currently under review. Applications #1437 and #1438, 34 Merrifield Way, were received October 23, 2013, and are scheduled for a Public Hearing tonight.

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**Report from the Borough Engineer's Office**

Mr. Azzolina noted that on Application #1439, he received his copy last week and is currently reviewing that. His initial feeling is that it will require some additional revisions. The site plan was prepared by an architect as opposed to an engineer, so it is lacking certain information.

Also, the Lee application on Madison, he is still trying to get some direction from the County since that application is on a County road. Parts of the application are under their jurisdiction. It has jumped from the Planning Department to the Engineering Department relative to the storm drain that is proposed in front of that property. He is waiting to hear back from the County's engineer office on that. Once he has that information, he can continue his review of that application.

Mr. Azzolina has prepared two reports for tonight's public hearing.

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**Public Hearing – Application #1437 & #1438, Merrifield Way**

Mr. Mark Maryanski was present on behalf of the applicant, Kishkush, LLC. Mr. Schuster noted that because this property involves a councilman, Mayor Romeo and Councilwoman Tsigounis recused themselves from this hearing. Mr. Schuster asked for the green cards from the mailing. He asked if Mr. Campoli was with them. Mr. Maryanski presented the cards, including the card for Mr. Campoli. Everything is in order.

Mr. Maryanski informed the Board that back in September this property was subdivided which the Board approved, which included variances for lot area and lot frontage. As a result, they are coming forward with the proposed development of these two lots. Technically the subdivision has not been recorded yet and as they stated earlier, his client does not yet own the properties, he is the contract purchaser. Depending on what happens here this evening, the closing on that transaction is eminent. They expect that to take place shortly. He mentioned that any approval tonight by the Board would be subject to the recording of that subdivision deed, which has been submitted but not yet approved.

Mr. Maryanski noted that they are here for the proposed construction of the two single family homes on the two newly created lots, which involve variances for side yards only. One of the lots has a combined side yard variance and the other has a single side yard and a combined side yard variance that are required for the proposed development.

Mr. Maryanski called the engineer, Mr. Chris Lantelme, as his first witness. Mr. Lantelme, Lantelme, Kerns and Associates, 101 West Street, Hillsdale, NJ, was sworn in by Mr. Schuster and was qualified as an expert engineer. Mr. Maryanski asked Mr. Lantelme if he was retained by the applicant to prepare the plans as submitted. Mr. Lantelme agreed. During the course of his work on them, he familiarized himself with the subject property and the surrounding neighborhood. He also familiarized himself with the zoning ordinances of the Borough of Cresskill as it relates to this application. They will begin with proposed Lot 17.02. Mr. Maryanski asked Mr. Lantelme to describe what is being proposed.

Mr. Lantelme noted that the date on the site plan is October 10, 2013, with no revisions. Lot 17.02 is a slightly undersized lot at 9,235 square feet and the zoning requires 10,000 square feet. It slopes from the street down to the rear yard. There is about a 10 foot drop from the highest point in the front to the lowest point in the back. On the property now is part of the existing dwelling, the driveway and garage. What is being proposed is a two-story dwelling, with a two-car garage. The footprint is 1,847 square feet. The FAR is 3,084 feet. It does have a macadam driveway on it. It is a downward sloping driveway so it will have a trench drain in front of the garage. There are two seepage pits in the rear that will pick up the run-off from that driveway and also from the dwelling. They also have a drain inside the garage as a back-up. Whenever they have a downward sloping driveway, they like to have some kind of back-up in case the drain in the driveway gets covered with leaves or somehow obstructed. There is no significant grading proposed on the driveway. The house is designed to be just on the lot, pretty much as it sits now.

In terms of variances, there is just one variance on this proposed site plan. That is the combined side yards. The side yard requirement is 15 feet. The combined side yards is supposed to be 35 feet and they are one foot short of that at 34 feet. They are showing 15 feet on the inside (south side) of the lot and on the north side of the lot they are proposing a 19 foot side yard offset. It still exceeds the minimum offset of 15 feet, but when you combine them, they are one foot short of the 35 feet required. Mr. Maryanski asked if that 19 feet was consistent along the length of the house or not. Mr. Lantelme noted that it is really just along the back corner of the house. If you look at the site plan, the main part of the house is actually about 20 feet and then jogs out because of the angle of the side yard. The further back you go, the closer the house gets to the side yard. By the time you get back to the corner, it is 19 feet. It is not the entire length of the house that is one foot, it is really just the rear portion of the house. As you move forward towards the front of the house, it actually conforms to the setback.

Mr. Maryanski stated that the proposed dwelling complies with the FAR and maximum building coverage percentages. Mr. Lantelme agreed that they do. The building coverage is not a problem, it is really just this side yard offset that is the issue.

Mr. Maryanski referred to the Borough Engineer's report. He asked Mr. Lantelme if he had any responses on behalf of the applicant to the report. Mr. Lantelme noted that he has gone through the appendix which is basically the action items. Some of these he anticipated. He spoke with the engineer's office and some of these items he knew were coming up. They redid some of the drainage calculations. There is nothing on there that is a problem. He can satisfy the engineer. His plan doesn't show the key map of the buildings within 200 feet. They actually did that for the subdivision plan so they have it and he can provide it. They won't be asking for that waiver. They have no problem with the approval being conditional on the revision of the plans in accordance with this report. He noted that the biggest thing in the report is the different drainage calculations, which they did. When they revised it, it did not call for an additional seepage pit, but they are going to make theirs slightly bigger than what is on there. That is the biggest item.

Mr. Maryanski stated that in the appendix there is a reference to a discrepancy between the figures shown on the site plan as to the FAR calculation and the impervious percentage, but the corrections called for in the appendix actually bring those figures into greater conformity with the zoning code. Mr. Lantelme agreed. If the corrections are made, the impervious coverage is actually less than what is shown on the plan. They will review that with the architect and adjust them. There is also a little difference in the height between what they have and what the architect has, but it still will be conforming and they will get together on that and come up with the same number. Mr. Maryanski stated that when the revisions are made, there will be no additional variances required. Mr. Lantelme agreed.

Mr. Galdi asked Mr. Azzolina if he looked at the drainage on this. They are using a trench drain in the front by the driveway. He asked if there is any way they can run that off to anywhere in the street. Mr. Azzolina state that there is not. The property slopes down from Merrifield. He is proposing two seepage pits in the rear yard. He has asked for a more comprehensive storm water management report. This goes back to the subdivision approval that was granted. Whenever lots are created via a minor subdivision, under the RSIS you have to comply with the storm water management requirements which

require reductions of peak flow or some other analysis. As Mr. Lantelme indicated, that is the primary comment that he had relative to the both of these site plans. It may prove out that two seepage pits are adequate or it may require an additional pit or larger pits. Mr. Galdi asked if porosity checks were made yet. Mr. Azzolina stated that that is something that is typically monitored during construction. Mr. Galdi also noted that on the drain at the end of the driveway, you should do a porosity check on that and maybe run a line back to the pit from there if you need it. Mr. Azzolina noted that the trench drain does discharge to the pit and as Mr. Lantelme indicated, within the garage proper, they are showing a floor drain, which discharges to the seepage pit, in the event that the trench drain gets clogged with leaves and somehow the water penetrates the garage door and gets into the garage, it would then enter the floor drain before entering the home.

Mr. Galdi asked if during construction, the feasibility of whether those two pits are adequate will be taken into consideration. Mr. Azzolina noted that they will. Mr. Vieni asked if they were talking about seepage pits for individual houses or one common pit for both houses. Mr. Azzolina stated that there are two separate systems. Ms. Bauer asked if the look of the houses would be identical or would have a different look. Mr. Azzolina noted that the architect would testify to that.

Mr. Maryanski turned to lot 17.01 and asked Mr. Lantelme to explain that lot. Mr. Lantelme noted that this lot is very similar to the other lot. This lot is also slightly undersized. It is 9,249 square feet. It is a little narrower than the other one. It has a 73 foot frontage and it narrows down to 65 feet in the back. This also drops down pretty significantly. It is about a 13 foot drop from the highest point in the front of the lot to the rear corner. Existing on this lot is the other half of the house that is there and what is being proposed is a two-story dwelling that is really the same size. It is mirrored a little bit. The square footage and the FAR is the same, same macadam driveway. It has the same sloping driveway as the other house so there is the same system with the trench drain in front of the garage door and another back-up drain inside the garage. They both go back to two seepage pits in the rear of the property. It is all gravity fed. There is no pumping or anything. Their practice is always to put something in the garage with a downward sloping driveway because if something happens and water starts getting into the garage the next thing is getting into somebody's basement. There is no significant grading on this property.

The significant difference here is that there are two variances being requested. One is the combination of adding the two side yard setbacks. The requirement is 35 feet and they are going to be at 28 feet. In this case, one of the proposed side yards is 13 feet instead of 15 feet. What they did is put the 15 feet, the one that conforms, out to the south part of the property and they have the 13 feet on the inside between the two lots that they are talking about. He mentioned that the 13 foot side yard is to the garage and that part of the garage is one story and the architect will go into that a little better. The variance for the 13 foot setback is for a garage. The main part of the house is over 15 feet from the sideline. Mr. Maryanski noted that that 13 foot measurement runs a little less than half way back of the proposed dwelling and the rest of the house exceeds 15 feet from the property line.

Mr. Galdi noted that they also have the lot area and lot frontage variances on both lots. Mr. Maryanski noted that those variances were approved with the subdivision.

Mr. Maryanski asked Mr. Lantelme about Mr. Azzolina's report and the site grading. Mr. Lantelme noted that there was an issue with the front steps and the front porch and he has to get together with the architect with that. That is an easily corrected issue. As far as the rest of the engineer's report, a lot of it is the same comments, the comments about the drainage. Mr. Maryanski noted that there are no issues on the report that would require corrections that would result in more variances. Mr. Lantelme agreed and noted they can comply with everything in the report.

Mr. Galdi had the same questions for Mr. Azzolina that he had on the other lot. He asked if he was going to do his evaluation and porosity of the seepage pits and what not. Mr. Azzolina noted that he was. Mr. Galdi asked if he had any objection of this being approved. Mr. Azzolina noted that he believes that they can comply with his report. He has requested a more comprehensive storm water management report dating back to the subdivision. The statement at the time was that it would be provided in connection with the site plan applications. Once he reviews that material, he is confident his comments can be met. Mr.

Maryanski noted that they have no problem that the condition that the applicant comply with the Borough Engineer's comments in the report.

Mr. Maryanski called Mr. Chris Blake, the architect, as his next witness. Mr. Chris Blake, 155 North Washington Avenue, Bergenfield, was sworn in by Mr. Schuster. He was accepted as an expert architect. Mr. Blake was retained by the applicant to prepare the elevation drawings and floor plans related to this application. As part of his work on this project, he familiarized himself with the property and the surrounding neighborhood and the zoning ordinance of the Borough of Cresskill as it relates to this property.

Mr. Maryanski started with Lot 17.02, the northerly lot. Mr. Blake noted that they are proposing a single-family residence. The setbacks described by the engineer are compliant with the single side yard setbacks and the front and rear as well. However, the combined side yard setbacks are 34 feet, where 35 feet are required. The 35 feet required is in the back corner of one property. The house will have a cellar, two-car garage, a foyer, powder room, living room, dining room, family room, and kitchen on the first floor, with a proposed terrace in the rear. The second floor will have three bathrooms, a small laundry room and four bedrooms. He thinks it is in keeping with the style and sizes of houses of today and houses in the neighborhood. The floor area is just under 3,048 square feet, and that is in compliance with the ordinance as well. Mr. Maryanski asked if the house complies with the FAR and building lot coverage percentage and the height. Mr. Blake noted they did. He feels that it is not an overdevelopment of this property. There is just one rear corner of the building that is one foot over the combined side yard setback. The reason is the combination of the room sizes and shapes with the peculiar shape of the property. It is a narrower property than the ordinance requires. It is a little bit of an odd shape as far as the side property lines, which are not parallel. It is pie shaped towards the back. The size and shapes of the room are not oversized. He doesn't think they are oversized by any means, particularly on the second floor where some of the rooms are 11 x 13. It is more the geometry of the property.

In his opinion, the size of the proposed home conforms to the sizes of homes in the neighborhood. He doesn't see any detriment if the Board were to grant the variance for the one foot setback because he thinks it is very minor and it is only in the one corner. They have taken precautions to step the building and work with the side property lines that are not parallel and they are trying to minimize the setback issues that they have.

Mr. Galdi asked Mr. Blake if in designing the house he gave any consideration to maybe reducing the sizes of the rooms or anything to make it up rather than to ask for a variance. Mr. Blake noted that it is wrong to say it is not a possibility. Of course it is a possibility. They think the house is in keeping with the neighborhood and houses of today's standards. They are not exceeding the FAR. It is barely over a 3,000 square foot house. It is really just the result of the shape of the property. Mr. Galdi realizes it is unique in the way it is set up, but the idea is we don't want to make it a habit of coming in if there is a way to reduce it to meet the criteria. That is why the side lines and everything were set up. We can't just keep abusing them. In the future, if you can possibly try to conform more than ask for a variance it would make everybody's job a lot easier. Mr. Blake noted that he understands. He stated that the other alternative is to make the house longer and then you would be reducing the rear yard and he doesn't know that that is necessarily a benefit for the zoning ordinance as well. If they were blatantly 10 feet over the side yard setback, he would say that is a good point, but the fact that it is less than four or five feet of just a foot that is over the setback line, in this case it is minimal. Mr. Galdi noted that it puts the Board in a precarious position for always granting a variance when sometimes when you look at the size of these rooms, with a little adjustment here and there, you can meet the code, rather than us just going carte blanche.

Mr. Vieni asked if the variance they are looking for on the side yard is basically about 10 square feet. Mr. Blake noted that he thinks it is even less than that. Mr. Morgan asked what the height was. Mr. Blake noted that the height is 27 ½ feet on both buildings.

Mr. Maryanski went on to Lot 17.01. Mr. Blake described a single family dwelling with the same footprint, same size and same shape as the other house. They are a mirror image of each other. The two garages will be facing each other as you look at them from the street. The house will have a cellar, two-car garage, a foyer, powder room, living room, dining room, family room, and kitchen on the first floor, with a proposed terrace in the rear. The second floor will have three bathrooms, a small laundry room and four bedrooms. This property is slightly narrower than the other property and therefore it is creating two variances, one a single side yard setback of 13 feet, where 15 feet is required, and a combined side yard setback of 28 feet where 35 feet is required. The 13 foot single side yard setback is a single height, one story height of the garage. It is the garage that is facing 17.02 and the other garage. The 13 feet is the worst case scenario. It is more than 14 ½ feet at the front of the garage. The predominant 30 feet of the house is more than 15 feet from the side-yard setback. The combined side yard setback is the result of the narrowness of the property. It is the same size house and the same footprint, which is in keeping with the lot coverage, as well as the FAR. It is set back towards the rear to comply as much as they can with the side yard setbacks. Mr. Maryanski noted that the side yard setback is not consistent for the whole length of the house. The proposed house on this lot is the same size as the proposed house on 17.02 and he feels that it is in conformity with the neighborhood. Mr. Blake agreed.

Mr. Maryanski asked if the FAR restriction and the percentage of building coverage and the height restrictions in the zone are designed to prevent the overbuilding on the property. Mr. Blake agreed. The setback restrictions are more to keep the homes from being built too close to one another. Under the setback requirements in the zone of 15 feet, two conforming homes could be 30 feet apart. With the proposed construction, the only two homes that will be closer than 30 feet, assuming that the adjoining property owners on the outside of these two lots have conforming setbacks, the only two houses that will be closer than 30 feet together are the two proposed, and they will be 28 feet apart. Mr. Blake agreed. That is only at the point of the two garages. He doesn't see any detriment if the Board were to grant the variances for the setback. He feels that the two one story garages being two feet closer than what is required is only 10 percent and not a big number. He is sure these properties will be landscaped and will blend into the neighborhood. There won't be any issue of living room windows staring at each other or anything like that. Mr. Maryanski noted that this was designed to maintain the distances between the buildings. This was the best design to try to minimize any impact of a setback variance. Mr. Blake noted that the positioning of the garages in such a way was to try to conform as much to the zoning ordinance and the intent of the zoning ordinance as they can.

Mr. Vaccaro opened the meeting to the public. Mr. Tom McMullan, 24 Merrifield Way, was sworn in by Mr. Schuster. Mr. McMullan noted that he lives in the adjacent southern property. Assuming he understands what just transpired, then he has no objection. His biggest objection would be on the side that would be next to him. That seems to be sacrosanct at this point and the way he understands it is the 13 feet portion is between the two houses being built so he, at this point, has no objection.

Mr. Galdi made a motion to close the meeting to the public. Mr. Vieni seconded the motion. All present were in favor. Motion approved.

Ms. Bauer asked what the houses were going to look like. Mr. Blake noted that they would be similar in size and shape, but they will be mirror images of each other so the garages will face each other. The colors and materials and some of the window patterns will be a little different so they will not try to mimic each other and be identical. The cosmetic treatment will be a little different. Mr. Vieni stated that on one of the houses the overage was six to ten square feet. He asked what the overage was on the other house. Mr. Blake stated that it would be in the 30s.

Mr. Galdi stated, as he quoted before on the other lot, to take into consideration especially when we run across an undersized lot, we can't keep expanding the houses to fit on a normal lot when the lot is undersized. We have to take that into consideration. Variances are hard to come by and we would like to enforce our code to keep the distances when we can. Take this into consideration in the future when you do have an undersized lot to reduce the house to make it fit on that lot rather than go for variances. Mr. Morgan asked Mr. Azzolina if he was satisfied with everything that was going. Mr. Azzolina stated that he will be once he receives the revised plans.

Mr. Galdi made a motion to approve Application #1437, subject to Mr. Azzolina's comments being addressed and his final site plan review and the recording of the subdivision deed. Mrs. Schultz seconded the motion. Mr. Schuster explained the lot area and frontage variances were granted with the subdivision application. On Roll Call: Mr. Vaccaro voted yes principally because he finds that the gentlemen in the audience that was concerned is now satisfied and they are doing nothing to disturb the neighbors and he feels that it is good planning and granting it would be beneficial to the Borough and he approves it. Ms. Bauer voted yes. Mr. Galdi voted yes with the requirements of the Borough Engineer and also in reviewing the plan the architect and the engineer did try to meet the criteria of the existing buildings around it. Mr. Morgan, Mrs. Schultz, Mr. Vieni and Mr. Ulshoefer all voted yes. Motion Approved.

Mrs. Schultz made a motion to approve Application #1438, seconded by Mr. Vieni. On Roll Call: Mr. Vaccaro, Ms. Bauer, Mr. Galdi with the same conditions as Application #1437, Mr. Morgan, Mrs. Schultz, Mr. Vieni, and Mr. Ulshoefer all voted yes. Motion approved.

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**Old Business**

None.

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**New Business**

None.

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**Other Business**

None.

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Motion was made by Mrs. Schultz to adjourn the meeting at 8:35 PM, seconded by Mr. Galdi. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for November 26, December 10, 2013, January 14, and January 28, 2014, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary