

# MINUTES

## CRESSKILL PLANNING BOARD

FEBRUARY 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, Mr. Vaccaro, Mr. Galdi, Mr. Morgan, Mr. Vieni and Mr. Calder. Ms. Bauer arrived at 7:41 PM. 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 January 22, 2013, meeting. The motion was seconded by Mr. Morgan. All present were in favor of the motion. Motion approved.

\*\*\*\*

### Correspondence

Letter of Introduction from Mr. Edward Rossi, Construction Official, dated January 30, 2013, sending Michelle Copland and Alexis Oliveri, Coolhotyoga II, LLC, to this Board for approval for "Aerial Yoga" at 15 Broadway, Suite 105. They were originally approved for a "yoga" studio at the August 28, 2012, meeting, however, since that time it has been discovered that their classes are for "aerial yoga." In an effort to clear about what this Board approved, they are being sent back to explain exactly their intentions. They have opened the ceiling and have hung hammocks on the ceiling beams. The classes are conducted on these hammocks. This letter is accompanied by an engineer's report certifying the load on the ceiling beams.

Letter from R.L. Engineering, Inc. dated January 24, 2013, referencing the inspection of the hammock support within the Yoga Studio at 15 Broadway. Richard L. Eichenlaub, from R.L. Engineering, states in the letter that he recommends that the limit on each hammock should be held at no more than 280 pounds per hammock.

Letter from Billy Rothlein from New Jersey Massage and Spa to the Cresskill Planning Board. The letter, dated February 5, 2013, states: "My business, NJ Massage and Spa, leases the premises on the second floor of 15 Broadway, directly above the applicant's premises. I understand that the application is scheduled for hearing on February 12, 2013. I am unable to attend the hearing but submit this letter for the record in opposition to the use being applied for.

"I understand that approval for the operation of a yoga/pilates studio was previously granted to the applicant in August, 2012. However, the aerial flying/antigravity yoga being conducted at the premises during the past four months is vastly different from that of a typical yoga studio. Aerial flying/antigravity yoga classes require that harnesses be attached to the ceiling (my floor) and ceiling alterations be made to accommodate the harnesses. When in use, the harnesses churn and creak loudly and rapidly. There is jumping from the harnesses onto a wooden floor which sounds like thunder and causes the space to actually shake and vibrate. In addition, the classes are conducted using very loud music, loud instructors, and loud patrons. The noise is at its worst during the teenage and other antigravity classes. However, even when formal classes are not in session, the harnesses are still in use at various times throughout the day. Because the space is hollow, all of the noise resonates through the ceiling (my floor), making it virtually impossible for me to conduct my own business which requires a serene and relaxing atmosphere

and operates during the same business hours as Cool Hot Yoga II. Although I have installed carpeting with padding and area rugs on top of the carpeting in my space, it has not helped to muffle the sound and the disruptive noises and shaking continues.

"For the foregoing reasons, I urge that use of the premises for aerial flying/antigravity fitness yoga be denied. If however, the Board decides to grant the application, I urge that the entire space, including the ceiling, be soundproofed as verbally recommended to me by the Building Inspector, as a condition of the use.

"Thank you for your consideration."

Ms. Copland was present and stated that the landlord actually takes classes at her studio. She noted that they do not play loud music, they are only there 13 hours the entire week and it really doesn't make any noise. They had the engineer come and make sure it was structurally sound. Mr. Vaccaro noted that it should be inspected by the Building Inspector. Mr. Vieni noted that the engineer's letter states that the hammocks are installed safely but they are putting weight loads on the hammocks.

Mr. Schuster doesn't understand why she is back here because she already has an approval for a yoga place back in August. Mr. Vaccaro noted that she was approved for something else. Mr. Galdi stated that they changed it to aerial yoga. Mr. Vieni asked why the aerial yoga was omitted from the original application. Ms. Copland stated that they decided to do the aerial yoga afterwards. Mr. Schuster noted that this seems to be more of a landlord issue. He would have had to approve the alterations in the space to begin with. Ms. Copland agreed that the landlord did approve it. He doesn't understand why the other tenant hasn't gone to the landlord about how he can't use his space, at least allegedly, the way he wants.

Ms. Copland explained that aerial yoga is where you lie down in the hammock and you listen to quiet music and it is supposed to feel like you are floating. Mr. Vaccaro noted that before this can be approved, the building has to be inspected for structure. Mayor Romeo noted that if it passes inspection, this is an internal matter with the landlord. Mr. Schuster stated that she should get a letter from the landlord and get an inspection from the Building Inspector.

Mr. Morgan noted that we did not approve the flying hammocks. Ms. Copland noted that they have regular yoga classes and then they decided to add the hammocks. Mr. Vaccaro told Ms. Copland to go to the Construction Official and if it is safe, work it out with the landlord.

Save the Date, April 20, 2013, Bergen County Bar Association, Annual Land Use Committee Symposium at Bergen Community College.

17<sup>th</sup> Annual New Jersey Land Conservation Rally is being held on Saturday, March 9<sup>th</sup> at the New Jersey Institute of Technology, Newark, NJ.

Letter from NW Sign Industries, dated February 8, 2013, regarding M&T Bank signs. Mr. Schuster spoke with Ms. Patti Fritz and he measured it out. Basically, what is proposed is well over what is permitted by the ordinance. The question was, is it more than what is there now? She was able to reduce it without impacting anything. It will be less than what is being used now, but it is still more than the ordinance. Mr. Schuster noted that the big difference is that the letters are going to be bigger, but the signs are going to be smaller. As long as it is less than what is there, he recommends that the Board approve it. Mr. Galdi made a motion to approve, seconded by Mr. Morgan. All present were in favor. Motion approved. Letter to Ms. Fritz stating the Board's approval, with copies to Ms. Barbara Nasuto and Mr. Edward Rossi.

Letter of Introduction from Mr. Edward M. Rossi, Construction/Zoning Official, dated January 14, 2013, sending Mr. Mike Cibischino to this Board for approval. The North Jersey Community Bank is changing its signage to show the new name of Connect One Bank. No one was present. Copy of what is being proposed to Mr. Schuster. Mr. Vaccaro noted that the signs are already up.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated February 11, 2013, sending Karoline Cakirdas of Keremo Cakes, LLC, and Mr. John Manfredonia, building owner, to this Board for approval. Ms. Cakirdas wishes to open a specialty bakery at 18 Union Avenue. She would also like to change the awning to reflect the name of her business. Mr. Manfredonia noted that the awning is already there, they will just change the lettering. He also noted that there are no restaurant tables on the premises and no eating on the premises. There will be classes held there. There will be about 10 stools along the bar. There are six parking spaces along the back. It will be retail sales. Ms. Cakirdas noted that their business is mostly custom cakes.

Mr. Manfredonia noted that they do have six parking spaces, plus one space for the upstairs tenant. Mr. Galdi made a motion to approve, seconded by Mr. Morgan. All present were in favor. Motion approved. Letter to Mr. Manfredonia stating the Board's approval, with copies to Ms. Barbara Nasuto, Mr. Edward Rossi, Mr. Chris Ulshoefer, Fire Chief, Mr. Edward Wrixon, Police Chief and the Board of Health Department.

\*\*\*\*

### **Subdivision Committee**

Nothing to report.

\*\*\*\*

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

Mr. Azzolina reported on Application #1430, 74 Prospect Avenue, 74 Prospect Avenue, Cresskill, LLC. He reviewed the plans in relation to the last submittal for this property that was previously approved. He noted that the primary difference at this point is that the dwelling is the same as far as he could tell except the garage has been taken down. He did not receive a complete architectural drawing, he received just the first page, A1. The Board may or may not recall one of the issues, as was pointed out at the last meeting, his report back in July 2008 indicated that the subject dwelling had an attic space that theoretically could be used as living space because it had an eight foot high ceiling and a full width staircase up to it. If it were to be used in that fashion, they would require an FAR variance because that would count in that calculation. The plans he received do not indicate what is going on there. Alexander, the project manager, was present and indicated that the previous plans had a full finished basement with a bathroom. Mr. Azzolina noted that that doesn't matter because basements don't count towards FAR. If the intent was to use the attic space, the fact remains that it would have to be included as part of the calculation, and if it were to be over the limit, they would have to go back to the Zoning Board because that is a variance that only they could grant.

Mr. Azzolina stated that the Planning Board did a resolution August 2008. Mr. Schuster noted that the paperwork that Alexander provided for tonight's meeting included a notice of a memorialized resolution from the Cresskill Zoning Board of Adjustment from August 12, 2008. Mr. Azzolina noted that they had gone to the Zoning Board initially and he believes they were turned down by them. Alexander noted that they originally had a bigger house. Mr. Schuster stated that this is just a technical question because the publication talks about a Zoning Board of Adjustment approval which he doesn't think they ever had. He thinks the approval was from the Planning Board. Mr. Azzolina noted that he had a denial resolution from the Zoning Board dated May 22, 2008.

Mr. Azzolina explained that the current plans appear to be the same, with the exception of the garage, which was then existing. The house was knocked down because they were directed by the Board to knock it down within 30 days of the date of that resolution, which he believes they did. For whatever reason, the garage, which was to remain, was also knocked down. Alexander noted that the garage was knocked down later. He received a letter telling them that it needed to be knocked down because it was not structurally sound. Mr. Azzolina thought it was a vermin issue, but if it was a structural issue, that is fine.

Mayor Romeo asked what they are looking to change. We had already given them approval. Mr. Azzolina noted that that may be good enough. The question was we didn't have all the facts two weeks ago. This garage is the same dimension as what was existing. Basically they were going to modify the existing two-car garage to make it a one-and-a-half car garage. Mr. Galdi stated that it was supposed to be a one-car garage. Mr. Azzolina said that if that was the case, that never made it to anything that he saw. All the plans that he has show it to be a one-and-a-half car garage. On the side is a patio area with a roof. The overall dimensions of that structure are the same. Mayor Romeo asked what that does to the impervious. Mr. Azzolina noted that they had obtained a variance relative to the impervious coverage. They were at 44% existing and it was increased to 45%. One of the things they were doing to limit the impervious coverage was the patio in the back of the house was to be from permeable pavers.

Mr. Azzolina showed the plans from the July 22, 2008, meeting, which they were directed to prepare revised plans from his memo. These are those revised plans. To him it really is semantics as far as the size of the garage goes. It has a single overhead door, which would be most people's idea of what a one-car garage is. Then there is some additional area on the side of it for storage. On the side of the building is an open area, like an open porch. It is only six feet wide. This plan was already approved. The building coverage is over. It is 30.7%, where 20% is permitted. You have two separate buildings, a detached garage structure and the footprint of the building. This plan is the same as what we previously approved. The building coverage is 30.7% including the garage. The FAR is conforming at 39% on the sliding scale for a small width lot. That is excluding the attic area. Mayor Romeo asked how much area the garage was. Mr. Azzolina noted that it is showing to be 276.6 square feet. Mr. Vaccaro noted that we approved everything with a one-car garage. The whole thing here is we are talking about a one vs. one-and-one-half car garage. We approved everything else.

Mr. Galdi stated that there is a discrepancy in the paperwork. It makes no difference because it is not a two-car garage. Mr. Schuster noted that there are two questions here. One is that he demolished the garage that was supposed to stay, which technically voids the approval. The second question is to decide, if that doesn't make any difference, is the permit still grandfathered in based on the Permit Extension Act. Mr. Schuster noted that the Permit Extension Act is adopted periodically every now and then. He will have to check to see if it is still in effect or not. Mr. Galdi noted that by taking the garage down, they changed what was approved.

Mr. Azzolina noted that during the hearing, per the Board comments, they agreed to alter the garage to make it a smaller garage structure. It was a 20 ½ foot wide building and they took that space and divided it into a 14 ½ foot garage, that they are terming a one-and-a-half car garage, and the remaining six feet on the outside of the building as a covered porch, which is shown on the revised plan. The coverage didn't change. The roof area didn't change. You cannot fit a car in the covered porch. Mayor Romeo asked what percentage the garage was of the lot coverage.

Mr. Vaccaro asked if the Board was agreeable to the change. He has no problem with the change. Mr. Azzolina noted that the dwelling is 929 square feet. The porch is about 100 square feet. Mr. Azzolina noted that typically the garage is incorporated into the footprint of the dwelling. That is what is skewing the numbers. From the applicant's perspective, this property used to have a detached garage. It is a 50 foot wide lot. They would like to continue that design.

Mayor Romeo asked if he was grandfathered in or if his permits expired. Mr. Schuster noted that under our ordinance he is not, but one of two things would have to happen. One he would have had to make some effort to commence some activity on the site which he didn't do. The second thing is whether or not there is an existing Permit Extension Act as adopted by the State. If there is, he would be grandfathered in. Alexander asked if getting the permits to demolish the garage would count towards moving forward with the construction. Mr. Schuster noted that demolition doesn't count.

Mr. Galdi thought there were conditions that had to be met with the original approval. Mr. Azzolina also pointed out that the existing garage that was demolished was only 2.8 feet off the property line. Because it was knocked down, it should now be five feet off the property line. That is the only potentially new variance that would be attributed to this plan because the garage was taken down.

Mayor Romeo thinks that we should see if he is grandfathered in and if he is, everything is a moot point, unless we decide we want to go after him for knocking the garage down, but the Board of Health made him take it down. Mr. Schuster noted that by demolishing the garage, it in a sense extinguished the approvals. Mayor Romeo stated that the Board of Health made them take it down. Alexander presented the letter from the Board of Health dated July 13, 2010, along with the demo permit dated 7/27/2010.

Mr. Schuster found that there was a Permit Extension Act granted in 2008. Mr. Vaccaro stated that in the resolution it states that the garage will become a one car garage. He wanted to know if the Board would accept a one-and-a-half garage.

Mr. Schuster stated that the original Permit Extension Act was enacted in 2008 and would begin on January 1, 2007 and continue through December 31, 2012. This act was updated and grants the extension through 2014. It looks like he is good. Mr. Morgan made a motion to approve Application #1430. Mr. Galdi seconded the motion. All present were favor. Motion approved. The Board agreed that the attic space was to remain as an attic. The height conformed whether the space was living space or an attic. Mr. Azzolina asked Alexander to provide him with a set of architectural. Mr. Alexander agreed. He also stated that there is no finished basement. Two copies of the plan were signed with the approval memo. One copy to the Building Department, one copy to the file.

\*\*\*\*

**Old Business**

None.

\*\*\*\*

**New Business**

None.

\*\*\*\*

**Other Business**

None.

\*\*\*\*

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

\*\*\*\*

The next four regular Planning Board meetings are scheduled for February 26, March 12, March 26, and April 9, 2013, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary