

MINUTES

CRESSKILL PLANNING BOARD

MARCH 13, 2012

Mr. Vaccaro opened the meeting at 7:39 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, Mr. Galdi, Mr. Morgan, Mr. Vieni and Mrs. Schultz. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney. Ms. Bauer arrived at 7:51 PM.

Mr. Galdi made a motion to approve the minutes of the February 28, 2012, meeting. The motion was seconded by Mrs. Schultz. All present were in favor of the motion. Motion approved.

Correspondence

Application for Soil Erosion and Sediment Control Plan Certification for 16 Emerson Street, Marty Lucibello, Application #1408. File.

Application for Soil Erosion and Sediment Control Plan Certification for 450 11th Street, Martin Lucibello, Application #1418. File.

Permit from the State of New Jersey, Department of Environmental Protection, Division of Land Use Regulations, for Jacob Vivat, 265 Piermont Road, Application #1412. This permit verifies the flood hazard elevation on this site and grants permission to construct a new single family dwelling and attached garage to replace the existing dwelling and garage located in the flood hazard area of the Cresskill Brook approximately 100 feet northwesterly of the intersection of Park Avenue and Piermont Road within Lot No. 4.01 of Block No. 70.01 in the Borough of Cresskill, Bergen County, New Jersey. Copy to Mr. Azzolina. Mr. Azzolina noted that they tried to come here first and he recommended that they get DEP approval first. File.

Letter of Introduction from Mr. Edward Rossi, Construction Official, dated March 7, 2012, sending Mr. David L. Brown to this Board for approval. He would like to change the interior structure of 22 Lambs Lane (Feroli Project) from the original approval plan. Mr. Azzolina noted that we don't approve the interior plans. Unless they are proposing some modification to the exterior elements, they don't need to come here. Mr. Azzolina noted that this is the new house and it is his understanding that Mr. Ferolie is selling the new house to Mr. Brown and he is no longer going to be moving into the new house. Mr. Schuster stated that there was a big fight with the builder. He had a problem with the builder and there were all kinds of problems with the construction of the property. The builder defaulted with the doing the work he was supposed to do. Mr. Ferolie just told him that there was a bunch of litigation going on with the builder.

Subdivision Committee

Councilwoman Tsigounis had nothing to report.

Report from the Borough Engineer's Office

Mr. Azzolina noted that they are finalizing the design for the pavilion. He has it for an informal approval at tomorrow night's Mayor and Council meeting, with a formal approval at next week's meeting. They will advertise for bids that Friday. They will receive bids the beginning of April and to award the contract at the third meeting in April.

They are putting together the applications for the walking track for Third Street. For Allen Street, they are still trying to schedule a meeting with Verizon. Mr. Azzolina left a voice mail yesterday and they called back today and left a voice mail. He is trying to set up that meeting so they can discuss the construction costs for the relocation.

There is nothing on CSX. He prepared a map that indicates the reduced easement areas and transmitted that per the County's direction so we can get their blessing on the reduced easement areas and then once we receive that, the County will review it.

Mr. Vaccaro asked about the grant money for the Merrifield property. Mr. Azzolina noted that it is more of a legal matter relative to the deed. Mayor Romeo noted that we gave Mrs. Merrifield life tenancy and now they don't want her to have that. Mr. Azzolina noted that it is not the life tenancy that they are objecting to at this point, because we sent the deed down to them over a year ago. Now they are objecting to the reverter clause that states that if the Borough doesn't use it for passive recreation purposes that the Merrifields would then retain ownership of the property. The deed has been recorded twice, recorded and re-recorded. Somebody has to convince Mrs. Merrifield to change the deed. The original deed went back to 2007.

Mayor Romeo noted that the other alternative is to not take the money. Mr. Azzolina stated that the problem is that you still have the deed that gives them the reverter clause and he doesn't know if you really want that. Mayor Romeo noted that we are going to tear the house down and put a passive park there. Mr. Azzolina stated that that is all we can do or something in the conservation recreation venue is all you are permitted to do if you accept the Green Acres money. Their wishes more likely would be covered under the restriction that we have to put on the property anyway. It is not so much an engineering matter, it's more legal, so he has been discussing this with Mr. Salvatore, and he has been on top of this as well.

Old Business

None.

Public Hearing – Application #1418 – 450 11th Street

Public Hearing for Application #1418, 450 11th Street, Mr. Martin Lucibello. Mr. Lucibello presented Mr. Schuster with his proofs of mailing and affidavits of mailing and publication.

Mr. Martin Lucibello was present to present his case. Mr. Lucibello stated that he proposes to construct a personal residence on 450 11th Street. He is seeking two variances, one a coverage variance and one an impervious coverage variance. He wanted to make note that no setback variances are involved, no height restrictions are offended in any way. He wanted to go on record as to why he is asking for these

variances. They have been residents in this town for 42 years. They have had three or four different houses. They are at a point in their lives where they want to get something smaller. They want everything on one floor because his wife has had two knee operations and she has a lot of difficulty with steps and his daughter, Jenna, doesn't go up steps in most cases. They had to find something that was on one level. They actually looked for condominiums and couldn't find anything to accommodate his immediate family and his son, who also lives with them. He is 21 years old. The decision was made to build a house that could accommodate the special needs of his wife and daughter, and also large enough to accommodate a third person, his son, and basically justify the value of the property they purchased.

It is a knockdown. They are taking the existing house that as far as impervious coverage is concerned, exceeds what they are trying to do by about 400-500 feet. Actually, their house will impact the impervious coverage less than the existing house. The coverage variance that they are looking for is necessitated by the fact that they have to build everything on one level. They are not infringing on any side yards, front yard or back yard setbacks. That is basically the reason for his being here.

Mr. Vaccaro opened the meeting to the public. Mr. Rick Pascetta, 466 11th Street, Cresskill, wished to be heard and was sworn in by Mr. Schuster. His main concern isn't the variance, but the groundwater. The neighborhood must have an underground stream or something flowing that during winter thaws or two day storms would have the basements flooding and the seepage pits flooding. The house under construction has about five run off tubes going to the street. To put a seepage pit in he thinks will disrupt the whole neighborhood. They really don't have a water problem in the basements, but every so often they get a little bit of seepage but that's about it. He knows for a fact that at the old Muggeo house, he used to go and help them out over the past four or five years that we have had these nasty storms, and they have a sump pump in their basement and if you turn on your bathtub, that is how much water is rushing into that pit. The basement is never flooded, but that pump goes off in these heavy rains about every 5-10 seconds for about two to three weeks after the storm. That is how much water is coming through. On 12th Street, he has noticed that after those three houses were put up, they did get a big massive flood, especially his neighbor across the street. He has a seepage pit in his driveway and his whole driveway was flooded out. On 12th Street, he thinks it is 488, when the contractor dug out the pit, the excavated area, before the foundation was put in, there was a storm and that whole excavated area was filled in with water. There must be some underground stream or something. When that flooded, the across the street neighbor's driveway flooded and the seepage pit filled up and just overflowed. The contractor helped them pump everything out. He got a little bit of water in his basement at that time. A lot has been going on in that 11th and 12th Street area. Even down the road by the church, every time it rains a little bit, the town is there pumping it out. Something needs to be addressed and he just wants to make sure that the basements aren't flooded just because of a seepage pit that the State says is mandatory. That house doesn't have a seepage pit at all and everything flows out to the street. Even the sump pump itself has a line going out to the street. That is his main concern.

Mayor Romeo asked if there was a storm drain in the area. Mr. Azzolina noted that there is a storm drain on 11th Street, unfortunately, it is approximately 150 feet north of Mr. Pascetta's property and a portion of it goes down to Grant and another system continues through an easement to the next block over. It would be beneficial if you would think about extending the storm drain system to the south at some point in the future, but currently it is only in that one location. It is about two houses down towards Grant from the Pascetta's house. Eleventh Street slopes down from Lexington towards Grant.

Mayor Romeo noted that the flooding by the church is being addressed and is being taken care of. They are piping that down Lexington to 12th Street. He also noted that there are underground streams there. Mr. Pascetta noted that his house is offset on the property and the reason is because when the house was built, when they dug, they hit water. Mayor Romeo noted that the Borough Engineer will be involved to make sure that there is no impact on the surrounding properties.

Mr. Azzolina stated that what he perceives to be the biggest issue with the Pascetta property as it relates to the subject property is that it is about two feet lower than the subject property. However, when you look at the topo map for the area, basically that whole drainage area starting at Lexington filters its way down to this point. During the heavy rain events, the water may shed off of this property on to his. To

stop that from happening in the future, he recommends, as part of this project, that this applicant be required to construct either a landscape berm along the northerly property line or a low height retaining wall, creating almost a dam-like structure, which will then allow them to construct a swale so that all the water can be collected and continue that swale from the northeast corner of the property to the curblin and then it will flow in the gutter to the catch basins in the street. That, he believes, will address any overland flows that may find their way onto his property now, as well as not put any more water into the ground. It is going to stay at the surface until it is able to enter the gutter.

Mr. Pascetta noted that he has never noticed any sort of runoff that he is speaking of. What he notices is that the water in the basement is coming up from the bottom, it doesn't even come in from the side, it will come from underneath. As far as any runoff from heavy rains, everything kind of drains out into the street because when he redid his driveway, he pitched it the proper way. His concern is the heavy rains and the water coming up from the bottom. Mr. Azzolina noted that that would be a groundwater condition that really wouldn't be exacerbated by this proposal. Mr. Lucibello is proposing a seepage pit to control the runoff of the roof areas, but he concurs with his feeling that they should have an overflow from that system, which he will direct them to tie into basically that existing curb opening that you see. That system would not become overtaxed. It would then overflow into the gutter line and down the street. The preferred design would be to have a storm drain, if it were available to this applicant. He would recommend that he tie into it, but it is 200 feet away so that is not a realistic situation. The best he can do is a curb opening.

Mr. Pascetta wanted Mr. Lucibello to know that that pit fills up quick. Mayor Romeo noted that there is a stream that runs under 12th Street and Hungry Peddler. Mr. Azzolina noted that it most likely follows the alignment of the existing storm drain. Mayor Romeo asked if it would help if they extended the storm drain at some point in the future and how many feet would they have to put in. Mr. Azzolina noted that they would have to put in about 200 feet or so and he would recommend that they do that and then at some point in time they would be able to overflow into that storm drain. Mr. Galdi asked if that was a 12" in the street. Mr. Azzolina noted that it was at least a 12" and might even be 15". Mr. Galdi noted that it would then behoove us to continue that line up to that property and drain off that whole area that is coming down into that seepage pit. Now it is a direct hookup into that. Mr. Azzolina noted that it certainly wouldn't hurt. Mayor Romeo noted that they would consider that as a capital improvement at some time in the future.

Mr. Roman Gont, 465 11th Street, wished to be heard and was sworn in by Mr. Schuster. Mr. Gont's main concern is that he lives right across the street and so much water flows across the street and his house is much lower than the street level. He put in a seepage pit and his seepage pit fills up within an hour so he thinks that probably the applicant's seepage pit will have exactly the same problem as his. When he purchased the house about four years ago, he used to have a sump pump, but it really didn't do much because when he lost power, the sump pump is pretty much useless and the battery backup is only going to last so long and there is so much water that comes from underground. The seepage pit didn't solve the problem for him because there was so much water. The sump pumps to the left and to the right were working constantly, but when there is no power, they don't work.

Mrs. Schultz made a motion to close the public portion of the meeting. Mr. Morgan seconded the motion. All present were favor. Motion approved.

Mr. Schuster asked Mr. Lucibello for the reasons he needs the variances for the house. Mr. Lucibello noted that he exceeds the allowed coverage. He noted that he had to build a one floor structure to accommodate his wife's two knee operations and his daughter's reluctance to go up steps. Mr. Schuster noted that he has a personal reason for doing this and Mr. Lucibello agreed. Mr. Schuster stated that no other variances were needed and that the setbacks are consistent with the other houses in the neighborhood. No side yard or rear yard variances are required. The house is similar in construction to other houses in the area.

Councilwoman Tsigounis stated that she understands and is sympathetic to his wife's and daughter's restrictions and the reason for building one story. However, in the zoning table, there is a line item for

maximum livable floor area, for which he is under. In that respect, she still has a problem with the impervious being over the required limitations. That is a big concern. The zoning regulations were put up for a reason. We are very happy that they are making improvements to the area and that they are staying in town, but she thinks being that they are within the livable floor area, there is a little bit of a conflict saying that you are building this size for the comfort level of his family, however, you are still over the impervious. She doesn't see the hardship there. Mr. Lucibello noted that as far as the impervious is concerned, the existing is far greater than what he is proposing. Councilwoman Tsigounis noted that, in her opinion, that has nothing to do with it. Mr. Lucibello restated that it is an improvement in that area.

Mr. Morgan asked about the pit in the front yard. He asked what would happen if you put it in the back yard and put in a leech instead of a pit. Mr. Azzolina noted that a seepage pit is a leeching system. Mr. Morgan asked why they couldn't pipe it in the backyard and spread it out. Mr. Azzolina noted that it is a circular tank with holes in it surrounded by crushed stone and it holds water. Mr. Morgan asked why they couldn't pipe that out from the pit. Mr. Azzolina noted that if the residents are correct about the high ground water condition in the area, you would be fighting that groundwater in the extended area. He thinks the seepage pit with the overflow into the gutter line is the best that we can do at this point. In the future, if the storm drain is extended up the roadway, then the applicant can then overflow into that system.

Mr. Vieni noticed that there is no placement on the plans with respect to any outdoor living space in terms of a deck or patio or anything of that nature. He asked Mr. Lucibello if he had any plans for anything that would add to the impervious. Mr. Lucibello noted that he didn't have any plans at this stage. He is not adding a pool, which is one of the things that he saw in Mr. Azzolina's comments. As far as a patio, he has not had any thought process about that. He has been mainly concerned about the house. He believes that there is some provision for around the house, but nothing as far as a large living area. Mr. Vieni asked why he couldn't get the impervious coverage down 3% more or closer to what is the permitted use. It meets every other aspect or regulation that we have. Mr. Lucibello noted that it is because of the footprint of the house, and because of the expanse of the one floor construction. Room sizes were a consideration. He thought giving the existing, he was improving the situation, but apparently that doesn't mean anything. He really didn't think too hard about impervious coverage. Other than to reconstruct the house and do a whole new plan, there is nothing he can do relative to impervious coverage. Mr. Vieni stated that without the impervious coverage he would not need any variances.

Mr. Galdi stated that he heard most of the story and he sympathizes with the people and it is the correct procedure with what they are trying to do. However, he feels as though he should get his engineer to get a proper assessment of the drainage problem. Can they pick up the drainage and pipe it down to a particular spot, and in the meantime, the town will put in for a capital improvement to have a catch basin closer to the outside. He has to get his engineer to do some test pits and locate where most of the groundwater is coming from so they can pick it up. With proper drainage and impervious liners, they can more or less direct the water to where you want it to go. His engineer should be capable of doing that. You need to come up with a proper plan do protect the people in the area and also himself, and once he comes up with a design, show it to the Borough Engineer, and they can get together on it and that should alleviate all the problems and still make it feasible for him to proceed.

Mayor Romeo asked if this house was smaller than the previous house. Mr. Lucibello noted that the house was not smaller, but the impervious coverage was less.

Mayor Romeo noted that they are over on the impervious, but not much, and he feels that it is a hardship, so he feels that he doesn't really have an objection in going along with this. The neighbors don't have an objection to the house, they are concerned with the drainage, which the municipality will address to help them out. As far as changing the whole plans of the house, he thinks 3% is not a problem, since no one is objecting.

Mr. Vaccaro doesn't see a problem with it, basically because now the impervious is going to be less than what it was before. Also, he knows the family and understands the reason for doing it. If he would put a

two story house there, there would be no problem, but that is not what they are looking for. He has no objection to it, as long as the engineer can come up with a plan for the water drainage.

Mr. Galdi made a motion to approve, subject to the drainage being evaluated and the report given to our Borough Engineer and that he approves it. Mr. Lucibello asked if he got his engineer to meet with Mr. Azzolina and come to some kind of agreement, would that be OK. Mr. Galdi agreed. Mrs. Schultz seconded the motion. On Roll Call: Mayor Romeo voted yes. Councilwoman Tsigounis noted that she is thrilled that Mr. Lucibello wants to make an improvement to the town and that he wishes to stay in Cresskill, however, she did ask a couple of weeks ago if they could shave some of the impervious and building coverage, so she is going to stick with the zoning regulations and voted no. Mr. Vaccaro voted yes. Ms. Bauer voted no. Mr. Galdi and Mr. Morgan voted yes. Mr. Vieni agreed with Councilwoman Tsigounis about the impervious coverage and building coverage being over and voted no. Mrs. Schultz voted yes. Motion passed 5-3.

New 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 8:35 PM, seconded by Mrs. Schultz. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for March 27, April 10, and April 24, and May 8, 2012, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary