

MINUTES

CRESSKILL PLANNING BOARD

APRIL 14, 2015

Mr. Vaccaro opened the meeting at 7:35 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, Mr. Ulshoefer and Mr. Moss. Also present were Mr. Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney.

Mr. Galdi made a motion to approve the minutes of the March 24, 2015, meeting. The motion was seconded by Mr. Ulshoefer. All present were in favor of the motion. Motion approved.

Correspondence

Letter from L2A Land Design, LLC, dated April 6, 2015, regarding Willow Run, 1 County Road, stating that they are applying to the New Jersey Department of Environmental Protection, Division of Water Quality for Treatment Works Approval (TWA). File.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated April 7, 2015, sending a representative of the Cresskill Congregational Church to this Board for approval. They are proposing to change the existing sign on their property. A representative was present and presented copies of the proposed sign. This is going to be replacing the concrete sign that is out there now. They are putting it where the "White Elephant" sign is right now. This will have the information for the Cresskill Congregational Church and the Korean church. Mr. Morgan made a motion to approve, seconded by Mr. Ulshoefer. All present were in favor. Motion approved. Letter to the Congregational Church stating the Board's approval, with a copy to the Building Department.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated March 30, 2015, sending Ramapo Developers to the Board for approval. They are looking for a sub-division at 117 Sixth Street and would like to construct a new single-family home. They will require variances. Application #1463M was received on April 9, 2015.

Councilwoman Tsigounis introduced Application #1463M, 177 Sixth Street, Ramapo Developers that was received April 9, 2015 and is currently under review. Mayor Romeo noted that that is one of the last remaining 50 foot lots from the subdivision that was done back in the 1930s and 1940s. This has two deeds. They are keeping the existing house that is there.

Notice from Thomas Ludwig, Attorney at Law, attorney for M3M Builders, LLC, regarding the variances that are being requested at tonight's Public Hearing. File.

Subdivision Committee

Councilwoman Tsigounis already introduced the new plan that was received, Application #1463M.

Report from the Borough Engineer's Office

Mr. Azzolina noted that the only addition he has is for Application #1460, which is Eminent Properties. At the last meeting he indicated that the plans as presented were deficient with respect to the code requirements. He prepared a memo dated April 3, 2015. He distributed a copy of the memo that he e-mailed to their professionals. He thought perhaps they would try to turn it around quick and they would be able to approve the plans tonight, but he didn't receive revised drawings. This is the new home to be constructed in the flood plains so they went to DEP and got the requisite Wetland and Flood Hazard area permits. Once that was in place, he reviewed the plans for code compliance and there are a number of deficiencies. He spoke with the applicant's engineer and he is in the process of addressing them. Once they revise the plans, he will be able to make a recommendation for approval and sign the plans.

Mr. Azzolina also prepared a report for tonight's Public Hearing.

Public Hearing – Application #1462 – 102 Westervelt Place

Mr. Thomas Ludwig, representing M3M builders, stated that they have an application before the Board for variances to demolish an existing single-family home and construct a new single-family home on a new foundation. He called Mr. Chris Lantelme, his surveyor and engineer, to discuss the site plan. The current site plan was updated February 12, 2015.

Mr. Chris Lantelme, Lantelme, Kerns and Associates, 101 West Street, Hillsdale, NJ, was sworn in by Mr. Schuster. Mr. Lantelme is a land survey and engineer in New Jersey. He has testified before Boards in the State of New Jersey before. He has been before this Board before. He was qualified as an expert land survey and professional engineer.

Mr. Lantelme was asked to explain the project. Mr. Lantelme noted that the location, Lot 33 and 34, Block 76, known as 102 Westervelt Place, is in the R-10 Zone. The lot size is 10,529 square feet, which conforms, but it is only 70 feet wide, and in that zone it is supposed to be 100 feet wide. It is 150 feet deep. The characteristic of the lot is it is very flat. Existing is a 1 ½ story dwelling with a foot print of a little over 1,100 square feet. It has a driveway and a patio. What is being proposed is for that dwelling and all improvements to be removed and replaced with a single-family dwelling with a footprint of 2,251 square feet. There will be a two-car front entry garage, short walk to the front door, a patio in the rear and there will be drainage to take the water from the roof.

There are four variances sought. The first one is a side yard. Required is 15 feet and they are proposing a 10 foot side yard on the north side of the lot. A combined side yard is supposed to be 35 feet and they are proposed 25 feet. They are proposing 10 feet on one side and 15 feet on the other. Impervious area – required is 32.9% and they are proposing 36%. Building coverage is required at 20% and they are proposing 21.4%.

Mr. Lantelme wanted to talk a little about the variances and the reason for them. This is a narrow lot. It is only 70 feet wide, where this zone is supposed to be 100 feet. If you try to conform, particularly to the combined side yard, you would end up with a very narrow house and that is basically why they are looking for that variance. He also pointed out on the plan that the way they placed the house, it is close to being centered between the two adjoining houses. If you look at the adjoining house on the right on Lot 32, that house is 12.7 feet from the property line and that is the side they are proposing 10 feet so the distance from house to house is 22.7 feet. If you look at the other side, they are proposing a 15 foot

offset on that side and that adjoining house is 7.2 feet. There again it is a little over 22 feet between the houses. That is just a little bit of thought as to why they placed the house where they did. The only other thing is the impervious coverage – required 32.9% and they are proposing 36%. In this zone you are only using to calculate impervious coverage the first 125 feet. When you have a narrow lot, when you multiply the narrowness, the 70 foot wide by 125 feet, the number that you are using is unusually small for this lot. That is another thing that is leading to that variance requirement.

Mr. Ludwig asked if they had a wider lot, say a 100 foot wide conforming lot, would the impervious coverage meet the requirements. Mr. Lantelme noted that you would be using 30 more feet of width. You would be allowed 4,000 square feet and they are at 3,148 square feet. So they would conform to the ordinance. Mr. Ludwig stated that the narrowness of the lot negatively impacts the ability of the impervious coverage. Mr. Lantelme agreed that it impacts the ability to meet that coverage requirement. Mr. Ludwig noted that you can't do anything about the width of that lot. On either side of the property there are dwellings and he asked if they were both undersized as well. Mr. Lantelme noted that the one on the right is and he thinks the one on the left is the same size as the subject property. This 100 foot requirement is not met by very many houses on the street or there are quite a few houses on the street that don't meet the 100 foot wide requirement. Mr. Ludwig asked if the impervious coverage would be a minimal variance in light of the lot width. They are allowed 32.9% and they are requesting 36%. Would that be a minimal variance? Mr. Lantelme noted that they are exceeding it by a little over 3%. Mr. Ludwig asked the same thing about the building coverage. Mr. Lantelme noted that the building coverage was 1.4% over the allowable.

Councilwoman Tsigounis noted that there is nothing they can do about the size of the lot, but there is something you can do about the size of the dwelling being that it is new construction. Normally, hardships do exist when you are trying to extend an existing structure and variances are often granted for that reason. This is completely brand new. She wanted to know what is the hardship? She is calculating the house width to be 45 feet. Mr. Lantelme agreed. Councilwoman Tsigounis stated that, by all means, is not narrow. She wanted to know what the hardship is for the house to not be narrower and conform a little bit better to the side yard requirements. Mr. Lantelme stated that if they got rid of a garage, but a two-car garage is pretty standard. Councilwoman Tsigounis stated that a two-car garage is 22 feet wide or 25 feet wide. Mr. Lantelme noted that if they got rid of one of the garages they could probably conform.

Councilwoman Tsigounis noted that she is aware that he is not an architect and it is probably difficult for him to answer this questions, but what she is looking for is, being that it is new construction, you usually try to conform to the zoning code. Mr. Ludwig noted that the owner could probably answer those questions. Mr. Mamdouh Guirguis, 8 John Dow Avenue, Waldwick, NJ, was sworn in by Mr. Schuster. He is the owner of M3M Builders. Mr. Schuster asked if he was a corporation. Mr. Guirguis stated that it is an LLC. He is the owner of the property. Mr. Guirguis noted that if he put a house 35 feet wide, the only way he can have a two-car garage is if he had the garage underneath the house. He stated that, as a volunteer firefighter, he thinks about safety and convenience. Safety you are dealing with so many issues here. Car garage underneath the house, people with elderly parents, infants and people with special needs, you are going to have a garage underneath, you will have a lot of safety issues here. Plus snow, sleet and rain, you are dealing with safety issues. Again, if you have people with infants, getting the groceries inside in inconvenient. Also, you have carbon monoxide beneath the house, you have fuel beneath the house, you have hazards underneath the house, that's why they don't want to have the garage underneath the house. They would like to have just a normal two-car garage, entry foyer and a living room. Just a normal house. If they have 10 less feet, they would be unable to do that. Also for curb appeal. Councilwoman Tsigounis understood the curb appeal aspect.

Mayor Romeo asked what the square footage of the house is with both floors. Mr. Guirguis noted that it is 3,080. Mr. Azzolina noted that that is the area noted by the architect. Mr. Guirguis explained the layout of the house. He pointed out the garage, entry foyer and the living room. Entering from the garage, you have a mud room and then go into the kitchen. You also have a powder room and a dining room from the kitchen and a dinette for the breakfast area and a family room in the back. On the second floor, you have a master bedroom with two walk-in closets and a master bath. Also, you have another

two bedrooms that share one bath. Then you have another bedroom with one bath. The laundry room is on the second floor. They have a normal basement. There are three bathrooms upstairs. They kept the living space as much as they can away from the garage. By having the garage underneath the house, the floor on the first floor is always cold no matter how much you put heat in the garage. That is why they pushed the second floor backwards. The bedroom is pushed back so it is not right over the garage.

Mr. Ludwig asked Mr. Guirguis what the estimated sales price would be on this house. Mr. Guirguis stated that it would be around \$1.2 million. Mr. Ludwig asked what the desire of many buyers was. Are they looking for a house under 3,000 square feet or 4,000 square feet? Mr. Guirguis noted that it is around 4,000 square feet. This size home is good in Cresskill to people who are moving in with kids for the school system and that's what people are looking for. Mr. Ludwig asked if they were looking for a smaller house than this. Mr. Guirguis stated that no, you can't. For this lot you can't have a smaller house. Mr. Ludwig asked if there was a market for a three bedroom house. Mr. Guirguis noted that there is not. It is all between four and five bedrooms. The most desirable homes that he always builds are five bedrooms. Five bedrooms, five and a half baths is what everybody is looking for, especially if he has a bigger lot, he can have another one bedroom on the first floor for an in-laws suite. But in this case here, he has no choice.

Councilwoman Tsigounis wanted to get back to this lot. She feels that it is a lot to ask for a 10 foot variance when you have new construction and you have the opportunity to start from scratch and try to shave off even two feet to just alleviate not having such a narrow side yard.

Mr. Vaccaro opened the meeting to the public. Mr. John Buchak, 111 Westervelt Place, Cresskill, wished to be heard and he was sworn in by Mr. Schuster. Mr. Buchak has lived there for almost 50 years now. He feels the house is too wide for the lot. There is not too much elbow room on that street. He doesn't think it matters whether he doesn't want to have a garage underneath. If you can do it by the rules and guidelines of the State of New Jersey and the Cresskill regulations, then do whatever you have to do. He thinks that basically the house is being built for maximize profit and there is other ways to go about doing it and it is just too wide for that lot, period. He has lived on that lot for quite a while and he just feels that there is just not much elbow on that lot. It is not like somebody is coming in here for a variance to put a wheelchair ramp on the side of an existing house for grandma or maybe to throw a little fireplace bump out on the side of the house for the living room. The guy wants to wind up making the house as big as he possibly can for the most amount of money that can be valued for. That's it. There are other ways to do it. Like Councilwoman Tsigounis said, they are starting with a clean slate, a clean blackboard here. There are other ways to do it. Just because he is a fireman and he doesn't think it's a good idea to have a garage underneath the living quarters, that's personal preference. You can do it. He doesn't really like those kinds of houses, but there are other ways to do these things and he thinks, personally, he should stay within the confines set forth of this town as far as the sideline setbacks go, because it is just too damn tight on that block. If he was coming in here and saying he wanted to go out another two feet out the back, he wouldn't care. But, the sides, it is just no good. That is his feeling.

Mr. Ludwig had a couple questions for Mr. Buchak. He asked Mr. Buchak what size lot he lived on. Mr. Buchak stated that it is probably about 110 feet wide. Mr. Ludwig noted that if he wanted to build a house, he could probably build a large house on that lot. Mr. Buchak noted that he has a house on that lot. Mr. Ludwig asked him what his setbacks were on both sides. Mr. Buchak stated that he had no idea because his father bought that house and it was the same as it is right now. Mr. Ludwig stated that he doesn't know whether he violates the zoning ordinance or not. Mr. Buchak stated that he has no idea. He doesn't really know because he doesn't really care. He is not knocking down his house and building another one and if he did, he has enough room to build a house without having to violate the codes of the zoning. Mr. Ludwig asked how deep his lot was. Mr. Buchak stated that it was probably about 120-121 feet. Mr. Ludwig asked him if he knew how big the lot was to the west of his client's house. Mr. Buchak had no idea. Mr. Ludwig asked if it was a narrow lot. Mr. Buchak stated that he never measured it. Mr. Ludwig asked if he objected to that individual putting a house on it. Mr. Buchak noted that he didn't get notified about that house.

Mr. Morgan felt that he was getting argumentative. Mr. Schuster stated that he is not sure how relevant it is whether or not he objected to somebody else's development on their property or what he is asking for. Mr. Ludwig noted that the neighbor's lot is 35 feet wide as is the two neighbors just to the west. He stated that the Board granted obviously a variance to allow a house on a 35 foot wide lot. Mr. Morgan asked what the address was for that house. Mr. Ludwig was not sure. Mayor Romeo noted that was probably before we even had zoning laws. Mr. Ludwig noted that there is a new house on one of the three lots.

Mr. Vaccaro asked what the particular hardship was that they have to build this size house. Councilwoman Tsigounis just finds it odd that they didn't try to conform more stringently to our codes being that it is brand new. It is possible to build a home that is less than 45 feet wide. She doesn't really see that the lot size is the hardship knowing that he can build a smaller house. Mr. Ludwig interrupted Councilwoman Tsigounis and stated that that is the hardship. That is a legally recognized hardship. The town zoned this area to be a 100 foot wide. None of the lots on the south side is 100 feet. Councilwoman Tsigounis wanted to clarify that their hardship is the lot size. She still thinks it is possible to work within the constraints of the zoning code. Not maybe to match it exactly, but she feels it is expansive. Mr. Ludwig noted that the hardship is to comply with the zoning ordinance when none of the other houses within 200 feet of the subject property conform with the existing ordinance as well. Councilwoman Tsigounis stated that that is why we have these zoning ordinances in order not to make things so wide and heavy. Mr. Ludwig said that he thinks the evidence shows, and his client has testified, that his property meets within the neighborhood scheme. Councilwoman Tsigounis doesn't see that.

Mr. Schuster asked if there was not one lot within 200 feet that has a 100 foot frontage. Mr. Ludwig pointed out on the southerly side of Westervelt. Mr. Schuster noted that that was not his question. He asked about properties within 200 feet. Lot 9 looks like it is over 100 feet. Mr. Ludwig explained that that is on the northerly side of Westervelt. Councilwoman Tsigounis noted that 10 feet is what they usually grant for an accessory structure like a garage. Mayor Romeo added or for a 50 foot lot. Mr. Ludwig stated that many of the lots on the northerly side of Westervelt are 100 feet wide. There are a few that are smaller than 100 feet. On the southerly side of Westervelt, none of them are 100 feet wide and many of them do not comply with the zoning ordinances as they exist. Lot 35, next door, their setback is 7.2 feet from the side yard. Councilwoman Tsigounis asked if they were existing dwellings. Mr. Ludwig stated that they were existing dwellings so they are meeting the neighborhood scheme. So if the neighborhood scheme everybody does not comply with the zoning ordinance, then either everybody has to get a variance if they want to put a deck on or predecessors of the town put in a zoning ordinance that up-zoned the neighborhood. Councilwoman Tsigounis noted that, yes, they would have to get a variance for a deck, and she fails to see a hardship when it is new construction. That is all she is trying to say. She understands Mr. Ludwig's opinion, but she is entitled to her opinion as well. She still fails to see that hardship. She is not saying they have to go all the way to 15 feet, but it is a give and take. Is there anything they can give a little bit to get this variance that would help the Board's issue.

Mr. Ludwig stated that he thinks the Board indicated that a two-car garage is a requirement. Nobody is buying a one-car garage. So, if you put the 10 feet on the other side and leave the garage, you now don't have a living room or a dining room. Councilwoman Tsigounis noted that Mr. Ludwig is not listening to her. She said is there anything they can give a little bit of, she is not asking for 10 feet, to help modify that width factor. Mr. Ludwig stated that then the Board is asking for five feet and there is still a variance. Councilwoman Tsigounis stated that she is not asking for anything, she is just asking for a compromise for something to help the neighbors. Mr. Ludwig noted that the neighbor wants them to comply.

Mr. Guirguis drew a line on the drawing showing 10 feet off the house. Councilwoman Tsigounis stated that they are over-exaggerating her point. Her point is not to destroy the house. She would not want them to destroy the look of the house. What she is asking for is if there is any way that they can shave off something from the perimeter of the house to help keep it a little bit more in compliance. We have to be very careful about what we are doing on this Board. She thinks they should respect that.

Mr. Buchak's feeling is that he knew what he got when he bought the place and he has to work within the confines here as far as zoning goes. He doesn't really care that his living room is not as big as he wants it to be or he can't have a two-car garage. He bought a small lot and that's the end of that. That's all

there is to it. The thing is, if this is the case of this is a hardship and he can't make as much money or he can't have a house as valuable as he wants it to be, is that a really good reason to wind up letting him do what he wants to do. We don't have that much elbow room on the street. Ninety-six Westervelt Place is no wider than the house that Bill Fuchs had there since before he wound up living on Westervelt Place. Whatever zoning he needed to make that house deeper he was probably a little too far away to get the green card in the mail and come down. He really wouldn't have cared because it is no wider than Bill Fuchs's house was at 96 all those years. The thing is that now he is going to come in here and throw another five feet on the side because he doesn't want a garage on the bottom and because he doesn't want this and he doesn't want that. You know what, go back to the drawing board and make something that is going to fit on that lot. That is all there is to it.

Mr. Ludwig wanted to point out that the law allows and requires you to consider their application. If they were required to comply with all of the zoning requirements, there would be no need for a Planning Board or Board of Adjustment and no one would ever get variances, but the law recognizes that justice requires the Board to consider the application and grant variances when it finds that there is no negative impact on the neighborhood scheme and if there is a positive benefit. The positive benefit is that they are getting rid of an eye sore of the existing house and they are building a brand new house which will be a benefit to the community and which fits within the neighborhood scheme. Yes they could build a house that fits within the narrow confines, but they may exceed certain other variance requests because the impervious coverage would be too much. If they took off say 2 ½ feet, they would still not meet the required combined side yard of 35 feet. They would have it 7 ½ feet, but that would require that the living room is no longer 13 feet wide, but basically 10 feet wide. That would push the house back and they would now have a railroad style house, a very long and narrow house and it would not fit within the neighborhood scheme.

Mr. Vaccaro said that when he said if they took off 2 ½ feet it wouldn't mean anything, would it not decrease the impervious coverage, would it not decrease the building coverage, which they are asking variances for. If you took off 2 ½ feet, the building coverage would be less and the impervious coverage would be less. Mr. Ludwig said that it would not be marketable to people that are looking basically for a house... Mr. Galdi stated that then maybe this is not the lot for him. You can't have it both ways.

Mayor Romeo stated that he either needs to compromise or he won't be able to build. Mr. Guirguis had no problem with that and asked if the Board would allow him to come back to another meeting with his architect. Mayor Romeo noted that people come before the Board all the time and the Board tells them what we would like to see and everybody gets along. Mr. Ludwig commented that he hasn't heard anything other than the Board's architect asking them to compromise. He hasn't heard anything else from any other Board member other than either compromise or... Mayor Romeo stated that the house is too wide. Mr. Guirguis asked if could come back with his architect to answer all the questions. Mr. Vaccaro asked Mr. Guirguis if he could reduce the size of the house. Mr. Guirguis stated that sure he can. Mr. Vaccaro asked him if he could still have a two-car garage with less impervious coverage and less building coverage. Mr. Guirguis stated that he could. Mayor Romeo stated that the Board doesn't want to turn him down but wants to do something that is amendable to both the builder and the people that live there and have been there before. Mr. Guirguis agreed. Mayor Romeo noted that it is a pretty liberal Board but there is usually give and take from both sides.

Mr. Ludwig stated that he understands but he noted that there are also other neighbors that are not here. And apparently the ones that are not here probably don't have a problem with it. Mr. Schuster stated that just because they are not here doesn't mean they agree with it. You could look at it another way and say if they really liked it they would be here supporting it. As you also know, this is not a numbers game. If 50 people show up you don't get it and if 10 people show up you do. That is not how it works. Mr. Ludwig noted that his client has indicated that he will speak with the architect and try to make a compromise, but you have to understand that it is not going to be 35 feet combined. Mr. Buchak asked if they were going to take a foot or a foot and a half off.

Mr. Schuster asked as a procedural matter, how did they want to proceed. Did they want to continue the matter? Since he noticed the people for tonight, we can continue it until the next meeting without further

notice. Mr. Buchak noted that there are other neighbors that couldn't be here tonight because they are out of the State. Mayor Romeo thinks that the people of Westervelt know that something is going to be built, it should just be a little bit smaller. Mr. Galdi said they should work on something that is better for that particular lot.

Mr. Schuster stated that we are going to agree to continue this until the next meeting on April 28, 2015. They are not going to be required to re-notice by mail or publication. They are going to waive the statutory time period for the Board to act based on the fact that we are going to continue this. Mr. Ludwig agreed.

Old Business

None.

New Business

None.

Other Business

None.

Motion was made by Mr. Galdi to adjourn the meeting at 8:33 PM, seconded by Mr. Ulshoefer. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for April 28, May 12, May 26, and June 9, 2015, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary