

# **MINUTES**

## **CRESSKILL PLANNING BOARD**

**APRIL 26, 2016**

Mr. Morgan opened the meeting at 7:33 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

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

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Mr. Durakis made a motion to approve the minutes of the April 12, 2016, meeting. The motion was seconded by Mr. Ulshoefer. All present were in favor of the motion. Motion approved.

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### **Correspondence**

Public Notice from the Borough of Dumont regarding a Notice of Fairness Hearing on Settlement Between Landmark Dumont, LLC and the Borough of Dumont and the Dumont Planning Board. File.

Letter of Introduction from Mr. Edward Rossi, Construction Official sending Mr. Frank DeCarlo to this Board for approval. He would like to construct a new single-family residence at 39 Chestnut Street. Application #1479 was received on April 21, 2016, and is currently under review.

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### **Subdivision Committee**

Mr. Morgan noted that Application #1479, 39 Chestnut Street, Mr. Frank DeCarlo, was received on April 21, 2016, and is currently under review. Applications were distributed to the Board members.

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

Mr. Azzolina noted that he has the reports for Applications #1475, 4 Evans Road, Eyal Morad and Application #1477M, 104 Morningside Avenue, Wakelee Dr. Corp., which are the subjects of tonight's Public Hearings.

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Resolution for Application #1478, 76 Westervelt Place, 76 West Place, LLC, with correction in Paragraph 5 was introduced by Mr. Durakis, seconded by Mr. Moss. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Moss, Mr. Durakis and Mr. Mandelbaum all voted yes. Councilwoman Tsigounis was absent. Motion approved. The original resolution shall become a permanent part of these minutes.

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### **Old Business**

None.

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**Public Hearing – Application #1477M, 104 Morningside Avenue**

Mr. Mark Madeo was present representing the applicant, 15 Wakelee Dr. Corp. The affidavit of service has already been submitted. He submitted the affidavit of publication. This property is located at 104 Morningside Avenue, Block 164, Lots 5, 6, 7, 8 and 9. This application was one that they originally sketched as a 50 foot lot and a 75 foot lot. However, in investigating the project between their filing and today, the intention was to rehabilitate the existing two-story framed dwelling, and that required leaving it on the 75-foot lot. It is nice to have that on the 75-foot lot. Unfortunately, it means that the other lot is only 50. That can sometimes be perceived as a little too snug depending on the area and this area seems to have a lot of 60-foot lots. Given that they have had the opportunity to look at that home and really make the determination that it would not renovate as nicely as you would like to think, and it is always their hope that they would like to renovate something, but that is not going to work out quite as well as they had hoped. So what they have done, in addition to A2, the original subdivision plot, is prepared an A3, which is two 62.5 x 100 foot lots. Two even lots, each one over 60 feet, and Mr. Hubschman will testify as to the predominance of those lots in the area and he thinks that would make ultimately a little bit more sense than sticking with a plan that has one of those lots at 50 feet. Mr. Madeo passed the plans (A3) to the Board members.

Mr. Madeo noted that A1 is the consent of the property owner, A2 is the original subdivision plat which was prepared and has been in the application packet for several weeks, and A3 is the amended subdivision plat, which provides for two 62.5 foot lots instead of one larger lot and one smaller 50-foot lot.

Mr. Michael Hubschman, licensed engineer and planner, 263 S. Washington Avenue, Bergenfield, NJ, was sworn in by Mr. Schuster. Mr. Hubschman has been licensed in the State of New Jersey since 1984. He has testified before this Board many times and before most Boards in Bergen County. Mr. Schuster asked Mr. Hubschman what his license number is. Mr. Hubschman stated that his engineer's license number is 29497 and his planner's license number is 3200. His licenses are presently in good standing. He was accepted as an expert planner and engineer.

Mr. Madeo asked Mr. Hubschman to give a brief overview of the existing property. Mr. Hubschman noted that it is an existing 125-foot x 100-foot deep lot. The whole neighborhood was subdivided in the 1920s. They were 25 foot lots that were sold off as different parcels to different people. This lot consists of five of those 25-foot parcels and they were sold at different times. The first one was the 50-foot lot in the middle in the 1940s. Then the owner purchased the two to the east and then the 25-foot lot to the west. Mr. Madeo noted that Mr. Hubschman is making a very interesting point regarding the title. He knows that the Board is aware that these properties, once they were created at these dimensions are considered grandfathered in at those dimensions. He knows the Board has encountered this question before. This is not something that is new to the Board. They believe that it is certainly a component of this application as of right. They are not going to be spending a lot of time introducing lengthy title documents, but he thinks most of the Board is aware of some of those from prior applications. Cresskill was one of those communities that was broken down into 25-foot tax lots. These happen to have been under different ownerships for a very substantial period of time.

Mr. Hubschman noted that on the 50-foot lot in the middle, there is the existing house and garage and driveway. The house was built in the '30s. The existing home is on the two 25-foot lots in the middle. The property is level on the home side where it looks like they filled it in where they built the house. Then it looks like it slopes down to the east. Removing the house would give you a chance to make it a lot more level and make things a lot better. Mr. Madeo stated that with this subdivision, they are proposing a 50-foot lot and a 75-foot lot. Mr. Hubschman agreed that that was their original application. Mr. Madeo noted that that was based on the idea of renovating the existing older home and keeping a 50-foot lot there. However, renovating the older home is not really a feasibility so they could now do a subdivision line right down the middle. Mr. Hubschman agreed and stated that they could now do two brand new homes rather than one older one and a newer. It would look a lot nicer in the neighborhood. That would also allow them to create two 62.5 foot lots and there would be no 50-foot lots involved. Mr. Madeo explained that when they move further along in the planning testimony, they will be able to discuss the predominance of 50, 60 and perhaps even 75-foot lots in the neighborhood and they can talk a little bit about the area.

Mr. Madeo asked Mr. Hubschman to testify about A2, which is in front of the Board, but let's consider that we are really talking about the dimensions in A3, which is to say, two 62.5 foot lots, two new homes and everything else being the same. Mr. Hubschman noted that on A3, that is the home that was built on the corner of Park and County. Mr. Madeo noted that these are not lots that the Board has to image, these are lot sizes that exist just a few blocks away. Mr. Hubschman stated that that corner lot is also about 62 feet but a little bit more irregular, but definitely the same size. These will be two 62.5 x 100 foot lots.

Mr. Hubschman stated that the lot area required is 10,000 square feet in the R-10 zone, with a 100-foot frontage and a 100-foot depth. They will be providing 6,250 square feet with a 62.5-foot frontage and a 100-foot depth. They are proposing a 25-foot front yard, but the covered porch encroaches, so it is 22 feet to the front covered porch. If they wanted to cut the covered porch off, the structure itself would conform. The main bulk of the house and the garage would be 25 feet plus. All things being equal, you would prefer to have the covered porch on the houses because it is a good element. Plus, you have the other 10 feet of the right of way so you are really 32 feet from the curb. Even though you would need a three-foot variance in order to allow a porch, they are actually set back at least another 10 feet from the curb because of the distance for the right-of-way.

Mr. Madeo asked Mr. Hubschman about the side yards. Mr. Hubschman noted that their original proposal was for 11-foot side yards on the 50-foot lot, so this would make that wider. They would have 12.25 side yards and 24.5-foot total side yards. That is for each of the two homes. These are shown on A3. Each of these side yards would be 12.25 feet instead of the 15 feet required. That makes them about 2.75 feet short. The combined side yards are supposed to be 35 feet and theirs is just over 24 feet. Mr. Hubschman noted that they are 24.5 total side yards but that is not for the entire house because the house steps back in the back. That is the side yard by the garage. The total side yard in the rear is 34.5. The side yard is measured from the narrowest point, but a certain portion of the lot has a wider side yard. That actual bulk of the structure would actually be conforming. The minimal livable floor area conforms. The maximum building coverage where 20% is permitted, they have 25%. That is mainly because of the two-car garage. Mr. Madeo explained that that is because with a slightly undersized lot, they use a greater percentage of it if they are trying to build a home with a two-car garage and a porch.

The municipality has an FAR requirement. This is one of the principal measurements of the bulk of the structure. Mr. Hubschman noted that they would be sent to a different Board if they needed an FAR variance. They are in compliance with the FAR. This is a factor that takes into account the size of the house vs. the size of the lot. They are permitted 2 ½ stories and that is what they are seeking. They are at 28 feet. They are not seeking any relief as to height. They are required to have two off-street parking spaces and they have four, two in the garage and two in the driveway. They exceed the minimum amount of parking spaces.

Mr. Madeo asked Mr. Hubschman about subdivision concerns. Is there access to water? Mr. Hubschman stated that water and gas are available in the street. They are extending the sewer about 50 feet, with the new plan. That is because the sewer line at this point only picks up the "old" house and wouldn't reach the new lot. Mr. Madeo mentioned the topography that Mr. Hubschman spoke about earlier. If they do have two uniform 62 x 100 foot lots, would that enable them to grade this project in its entirety. Mr. Hubschman noted that it would be a lot nicer because the house now is sort of humped up and once the house is down they could level it. On the left side there is sort of a depressed area. By completely building this site, instead of preserving the older home, they have the capacity to level the site properly and gain access to two flat, clean lots.

Mr. Madeo asked about some of the concerns expressed by the Board's engineer. Mr. Hubschman has no problems with any of the concerns of the engineer. They would have to come back to the Board for site plan approval with the new subdivision for those two houses. Mr. Madeo noted that the Board might be able to grant them site plan or at least dimensional footprints of the home tonight as well, but the bottom line is the engineer has done a very thorough report. They have reviewed that report.

Mr. Hubschman noted that they are not proposing sidewalks because there are no sidewalks in the area. He knows he has to extend the sewer up the street for the second home. There is always concerns with drainage and they did prepare a report and they will update that report. The impervious coverage will be much better if they are getting rid of that accessory building and that long driveway. They propose seepage pits for the roof leaders. Mr. Madeo noted that anything they are saying here this evening, the Board can certainly can make "subject to" in their approvals and obviously you have to have zero runoff, appropriate storm water retention and, in fact, by the removal of the old home, long driveway and ancillary structures, they are winding up with

somewhat less coverage and less need to handle water on that block. Mr. Hubschman noted that it is more controlled. The driveway will pitch out to the street and all the roof leaders will go the seepage pit.

Mr. Madeo asked if there was anything in the engineer's letter that they would not be able to accommodate. Mr. Hubschman stated that they will accommodate everything. He talks about the existing house and the fact that it is over in height and close to the street, but in fact, since the house will be removed, they are eliminating some existing variances, including a variance as to height. Mr. Hubschman also stated that most of these items will be covered in the site plan review.

Mr. Madeo asked Mr. Hubschman to look at some of the lots in the area. Mr. Hubschman states that if you look at the neighborhood there are 28 lots within 200 feet. These are a mix of between 50 and 100 foot lots. Everything is a 100-foot deep so when he says a 50-foot lot he is talking about the width. Out of the 28 lots, eight lots are 50 feet, eight lots are 60-70 feet in width, eight lots are 75-85 feet and there are four lots that are 100 feet in width. Mr. Madeo noted that the requirement there is 100 feet. There are only four conforming lots out of 28. The critical component there is that when you are looking at lots in this neighborhood, only four of 28 are conforming. In the immediate neighborhood, on Elmore there is a 60-foot wide lot, to the right is a 70, a 70 and a 60. Across the street is a 50-foot, 50-foot lot and a 100-foot lot. There are a lot of smaller homes surrounding these properties. Mr. Madeo emphasized again that only four of the 28 lots conform as far as width is concerned. Mr. Madeo asked if that has established a pattern in this neighborhood and when were most of these home built. Mr. Hubschman noted that some were older or middle, they are Cape Cod type houses on smaller lots. There is some redevelopment.

Mr. Madeo asked about some of the benefits of undertaking the two 62.5 foot lots with two new homes, generally speaking and as opposed to a 50 and a 75-foot leaving the older home. What would be some of the benefits of doing it this way rather than the other way. Mr. Hubschman stated that the 62.5-foot lots would fit harmoniously with the other lot sizes in the neighborhood. The 50 is a little smaller even though there is a 50 right across the street. It will be a lot nicer aesthetic house. On the 50-foot lot, the houses would be more like the garage takes up almost 60% of the frontage. The house on the corner is wider. The 62.5-foot lot enables them to create a footprint where the garage is not quite as much a central point. Mr. Hubschman noted that it allows for a nicer look.

Mr. Madeo wanted to talk about the purposes of zoning that might be advanced by the construction of two new homes on two 62.5-foot lots that seem relatively consistent with the adjoining properties. Mr. Hubschman noted that the purpose of zoning is to provide an appropriate population density in the neighborhood and they feel that they would be providing an appropriate population density as most of the lots, 75-80%, are undersized and they are keeping with the majority of the average of the lots. It is an aesthetically pleasing development and the development of the two 62.5 houses would have a positive effect on the neighborhood than a 50 foot would. That would be a little less desirable he would think. Mr. Madeo reiterated to the Board that they are looking to do the two 62.5s, but he did want the Board aware of the numbers that are simply true numbers from observation. There are eight 50-foot lots within 200 feet. There are only four conforming 100-foot lots within 200 feet. Accordingly, there are twice as many 50-foot undersized lots than there are conforming lots in the area. They are not looking at a 50 anymore, but he thinks that that fact alone illustrates some of what the neighborhood is. The truth is that the lot sizes are centered there in that spot in the middle, which is between 60 and 90 and they are offering the 62.5-foot lots, excluding the eight 50-foot lots. He thinks if you figured what the mean is of the 28 lots within 200 feet, he thinks it is around 62, 63, 64-foot area.

Mr. Madeo asked Mr. Hubschman about the negative criteria and what negative impact this might have, if at all. Mr. Hubschman stated that, in his opinion, it wouldn't have any negative impact on the neighborhood. It is two brand new homes, similar to the one on Park. It is a small development that would have a positive effect on the neighborhood. Two brand new homes, level, new landscaping, curb cuts. Mr. Madeo asked that as much as that gets in with the general lot sizes in the area, does that create a detriment to the purposes of zoning, purposes the master plan. Mr. Hubschman noted that all the adjoining lots are all smaller lots and these houses would fit right in. Mr. Madeo stated that either way, whether they go to 50 or two 62.5s, they will have to extend the sewer line to make that lot a properly sewered lot. Mr. Hubschman agreed because the sewer ends.

Mayor Romeo asked if they were now proposing two 62.5s. Mr. Madeo stated that they were. Ms. Bauer asked how much those two houses would stick up further to the street than the neighboring houses. Mr. Hubschman said they surveyed the two adjoining houses and they were in line with the existing houses so they would be

right in line with those houses. Mr. Moss asked if the garage was inside the house. Mr. Hubschman said it was. Mr. Hubschman also noted that you can see by the aerial view how all the houses line up.

Mr. Ulshoefer asked a question from an environmental standpoint. It looks like between the two lots they are only going to wind up with approximately seven trees, as opposed to cutting down 24 trees, if you take the original plan. Mr. Madeo asked Mr. Hubschman about tree plan, tree replacement and what has to be removed. Mr. Hubschman showed the existing conditions plan, from the 50-foot lot, they were removing trees in the vacant lot area. Mr. Ulshoefer stated they were taking down seven and leaving three. Mr. Hubschman noted that they would leave the three along the westerly side and probably clean up the cedars and the yews would have to come down. Mr. Ulshoefer noted that on A3 they are only showing approximately seven being left. Mr. Madeo stated that they can certainly add more landscaping. That is not the issue. What has to come out for the houses to be built, has to come out. What they can add back, they can certainly do a better job of that if that is the Board's preference.

Mr. Ulshoefer knows it is not as expedient as cutting them down, but some of the trees that are there that are flowering presently, it would be nice if the builders in the future if they could save some of these trees and dig them out and contact a landscaping company and they could pick them up and re-purpose them to other properties where even if it costs say \$500 to put a Japanese maple tree in or a dogwood or whatever it might be, maybe they could lower the price with a guarantee, maybe some people would be happy with that as opposed to just cutting them down. He doesn't know if any of the builders or if any of the planners or engineers have even thought of that aspect of it. It just seems like all we do is cut down trees. Mr. Madeo stated that Mr. Valenti builds more than a few homes in the surrounding towns. If there is the ability to re-purpose a valuable tree, he would imagine he wouldn't need a middleman to do that and he's sure could do that. It is a nice idea. If it could be done and he could use it, he doesn't think he parts with too many things of value. He would be happy to try to do that, obviously if there was some place to go with it.

Mr. Morgan opened the meeting to the public. Ms. Joy Fregonese, 95 Morningside Avenue, Cresskill, wished to be heard and was sworn in by Mr. Schuster. She lives across the street and one house west of the property. Her lot is 100 x 100. Mr. Fregonese noted that she and her husband moved there 39 years ago. When they moved to Cresskill it was a cute little quiet town that nobody ever heard of. She and her husband went to Macy's (then it was Bamberger's) to order a rug and she gave the delivery address and the guy said to her, "Cresskill, is that in the Catskills. We don't deliver there." Nobody heard of Cresskill. Now it is so built up, believe her, everybody's heard of Cresskill. How many lots do you want to subdivide? And please don't give her the argument that the more people that come in, the more taxes you can charge, because the more people that come in, the more amenities that you have to provide for those people, school, policemen, roads, DPW, ambulance, fire. They are not just pumping money in, you have to provide for these people. Never mind the traffic. She hardly disagrees with dividing this lot up into two lots no matter what you put on it or how you divide them. She doesn't mind if you build a big house. That's fine, you can get more taxes from that. Build a little MacMansion, but she doesn't want it divided into two lots. It is getting too congested. Do you want to wind up like Englewood? They don't pick up their leaves until February and then it snows on it. It is not the thing to do. She wants her little quiet town back. Mr. Moss asked what the main argument was between two homes and one home. Ms. Fregonese said one family.

Mr. Madeo asked Mr. Hubschman how big a single-family house could be on there. Mr. Schuster noted that she made a comment and no answer was necessary unless he wanted to re-direct or put it in his summary.

Ms. Josephine Brown, 103 Morningside Avenue, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Ms. Brown also owns 109 Morningside Avenue, Cresskill, as a rental. She owns two 50-foot lots with very small houses. Some years ago at 6 Weil Place, a hill was dug out, which diverted this underground water underneath this site, which diverted this water, so now 104 and his neighbor at 98, both get water in the basement. There is a lot of water underneath this site. She thinks it is sheer greed to want to squish two big houses on this 125-foot lot. Why can't they just build one house. Morningside is such a busy street you get run over if you go out at 7:30 in the morning because there is traffic, traffic, traffic, speeding up and down that street. You can't go outside, Cresskill is getting so crowded, you can't go out of your house at 3:00 in the afternoon. You can't go to Kings, you can't go to the Library because it is so full of traffic there is nowhere to park. Also, she understands that to build new housing in Cresskill now requires 150 feet. Mayor Romeo told her no. She just doesn't think it is fair for these builders to come along, they took the church site and built this huge house that nobody wants to buy. They are supposed to build five houses on that site. She just thinks it is disgraceful altogether that these builders come along and build these huge houses and they want to subdivide this lot. It is

a beautiful lot, it's got trees and flowers. Why can't they just build one house. She would be quite happy with one house.

Mayor Romeo asked Ms. Brown for the addresses of the two houses that get water in the basement. Ms. Brown noted that 104 Morningside never had water in the basement before they dug out the hill at 6 Weil Place. Ninety-eight Morningside is the other house. Ms. Brown also stated that she used to get water in her two houses, but once they dug out the hill across the street, she doesn't get the water anymore, they get it across the street so it makes her think there is water underneath there. Mayor Romeo stated that the reason he wanted to know is because he wants the DPW and the Borough Engineer to look into why that could be happening.

Ms. Brown continued on saying that they are building 27 town houses on the Willow Run lot. She wanted to know how many more children that is on the school system. She said it is getting to the point where it is just like the Bronx and she might as well move to the Bronx. Mayor Romeo asked her how long she lived here. Ms. Brown stated she has lived here since 1977. She said they are talking about small lots with smaller houses. Her house was built in 1964 and it is a small house on a small lot. They are going to build two huge houses right across the street from her. They have a herd of deer in Cresskill. Where are they going to go? They go on that lot a lot. They go in that sunken garden. It is very low on the side of 104 and there is a sunken garden. Her friend has always lived in that house. She bought that lot to make it into a garden and the deer go over there. There are 14 deer that run around Cresskill. Where are they going to go? Added to which, are they going to blast out foundations over there, because it is all rocks. Mayor Romeo noted that he couldn't answer that question, but he could find out. Ms. Brown stated that basically the town is so crowded and she doesn't understand why they want to build five houses on the church lot, 27 townhouses on Willow Run and two houses on this 125-foot lot.

Mayor Romeo wanted to answer some of what Ms. Brown was saying. First of all, we are going to look into why there is water coming. There is a lot of underground springs. Ms. Brown said it used to be when they got a lot of water, her rental house, #109, you could see the water bubble up.

Mr. Lou Fregonese, 95 Morningside Avenue, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Fregonese just wanted to say one thing that they (Mrs. Fregonese and Ms. Brown) basically covered, which are his thoughts as well. He and his wife came up from North Bergen/Fairview area and one of the biggest draws in this neighborhood was driving the streets and seeing houses situated on nice, big yards, where families could enjoy them and just looking out the window you could see a neighbor's house. It was just a nice feeling and that was one of the biggest draws of them coming to this neighborhood. Like his wife had said, it was a very quaint neighborhood and he knows that progress you cannot stop and it is going to happen, he realizes that. He is in favor of a larger house in the middle of the two lots versus 62.5 and 62.5. He wouldn't have any problem with that because then you would still have a good size lot all the way around it and you wouldn't encroach on a neighbor where they have a substantial amount of room to look out and feel like they are in Cresskill and not North Bergen or Fairview.

Mr. Jeff Joan, 98 Morningside Avenue, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Joan is directly to the right of the property. He moved here three years ago from Fairview and moved because of the school system. Right now his son is in 3<sup>rd</sup> grade has 30 kids in his class. When he moved here three years ago he had 25 so as we are building and building he feels that the classes get tighter and tighter and with the budget cuts that are happening with the Board of Ed and with teachers being let go and I don't think it's going to help much. They moved here for the schools, for more space. In Fairview, where he came from, there is overcrowding, overbuilding with two family houses.

Mr. Hiroshi Tamura, 27 Elmore Place, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Tamura stated that when we are dealing with brand new construction, he doesn't understand why you have to ask for variances. When you are trying to maintain the character of the town, you have these regulations and rules in place for a reason. If you have brand new construction, and he understands if you are doing a remodeling and you have some things that are grandfathered in, but when it is brand new construction, you have these regulations for a reason and that is his main beef. When you start to deal with side yard variances you start encroaching on the neighbors and it effects the neighbors. His concern is that it could potentially reduce property values of your neighbors. That is his main concern about people asking for variances for new construction.

Mr. Ick Kim, 39 Elmore Place, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Kim moved here about three years ago because he likes the school system. The thing is right now there are so many variances that they are asking for. The minimum side yard is 15 feet and they are asking for 11 feet and that is going to be too close to his property. That will devalue his property. That makes him upset. He lives facing the church. The backyard of one of these houses will be his side yard.

Ms. Ann Neary, 33 Elmore Place, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Ms. Neary has lived here since 1963 and with all the building that is going on, it's terrible. Between the traffic and everything else that is going on. Everything is crowded, overcrowded and it is just terrible. She came here from New York City and in 1963 it was not like this. Granted she understands you have to enlarge and change and this and that, but now across the street from her they took the church down and there is one house and nothing has happened and it looks terrible. It looks like World War III if you could imagine that. It is not very nice. She likes where she lives and she would like it to stay that way.

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

Mr. Madeo wanted to put one or two statements in context through the use of his witness. He asked Mr. Hubschman if he had an opportunity to average the frontages of the 28 lots within 200 feet. Mr. Hubschman noted that he did a quick calculation of the 28 lots and it comes out to about 68 feet. Mr. Madeo stated so that we understand, we are nowhere near the 100 feet. Sixty-eight feet is the average and we are proposing 62.5 feet. There was some comment about reducing the side yards and the houses are all squished together. Their deviation on the side yard is less than three feet and Mr. Madeo held up a piece of paper to show everybody what they are talking about. His point is that when they discussed the squishing of houses together because of a 2.5-foot deviation of the side yard requirement, he showed the people who spoke what 2.5 feet looks like. Just to be clear what is really being talked about. He did want to briefly point out that of everyone who spoke, there are two 50s, three 70s and one 60. Even of the people who are their neighbors, and they are glad they are their neighbors, virtually none of them except Ms. Joy Fregonese, are conforming. He offers that, not because they are not entitled to their opinion, but that it pretty much is consistent with what they are seeking. Obviously, the church is a different property. You build one house, then you build the others. That is the way it works. We understand that looks awkward for a little while. Willow Run, sorry to say, they had nothing to do with it.

Mr. Madeo continued saying that when we are talking here about these being two big houses, he wanted to remind everyone that they are under on the FAR. The only measurement of volume that you have that analyses lot area vs. house area, they are actually under and they are not here for any variances for. To point out, what seems big, maybe is not so big. He doesn't think anybody really confuses Cresskill with the Bronx or Fairview or North Bergen. If you do, that is a problem. But, no, nothing is like it was 40 years ago. When he moved behind Dunkin' Donuts in Bergenfield in 1969, he swore he was living in the country. Nothing has changed all that much, but that is a certain fondness of memory for what you remember places being. Unfortunately, sometimes that is not always accurate and it is based on fondness and he is glad for the fondness. But it doesn't necessarily mean accuracy. The fact that there are more kids in his son's class, has three more kids than it did three years ago, may have nothing to do with more houses. It may have to do with what families moved out vs. what families moved in in existing houses. He doesn't even think that is something that you have to go into that much. They are satisfied that the application they are presenting is, as he suggested, under the FAR, lots that are consistent with the area, by when you do the actual math, not when you do the memory, and whether it is one house or two houses, again the concept of overcrowding based on one more family somewhere as opposed to one larger family in a six-bedroom house. These are not significant differences. He asks that you also remember that the negative criteria, there has to be substantial detriment, not just detriment, you like it one way more than others. Once the affirmative proofs are in for the variance, the negative criteria require a demonstration of substantial detriment. He doesn't know that anyone can really say that two houses that conform almost entirely with the neighborhood and are under the FAR requirements have a substantial detrimental effect.

Ms. Bauer asked if it would be possible to move the two houses closer together to give relief to the side yard neighbors. Mr. Madeo stated that you can move them one foot closer to each other which might satisfy the existing neighbors more, but down the road they will be neighbors here. Mr. Schuster asked what the distance was between the houses and the existing houses. Mr. Hubschman said there is 30 feet between the house and the house west on Morningside. And there is a little over 40 feet between the house and the rear of the house

on Elmore. Mr. Madeo doesn't believe that the crowding concept has very much merit. If he could show you on a piece of paper how much undersized they are, they are not that much undersized. The fact is, if he could tell you, as Mr. Hubschman just did, that the distance between this house and the adjoining house is actually 30 feet, which would be the two 15s. The other point again, that he thinks the Board is aware of, is that historically, this lot was built as a 50 and a 75 and a 25 at the end. Again, there is a grandfathering of some of these lots and there is some construction here that is a matter of right. That is how Cresskill has historically viewed some of these assemblies of 25-foot lots. They didn't create that reality. Cresskill is unique in it is one of those towns that started out with those 25-foot tax lots that a lot of adjoining towns didn't, but Cresskill did. They believe that as a matter of right, they have a 50, a 50 in the middle, and a 25. But he doesn't want to talk about that, he wants to talk about how much better a 62 x 100 is that completely conforms to the neighborhood. He thinks that is where this application lies.

Mr. Schuster wanted to clarify that for the purpose of today, because of some changing around of plans, they are only seeking the subdivision. Mr. Madeo thinks that the Board could grant the footprints of the houses too, but if it is the Board's practice that they would like them to come back in for the site plan, they will. Mr. Schuster noted that sometimes they do that just for information purposes as opposed to seeking the relief. Mr. Madeo stated that they will be just seeking the subdivision then. Mr. Schuster also noted that as a technical matter, since they are seeking variances, this will be a major. Mr. Azzolina stated that it always was a major as indicated on the plan. He noted that off track improvements are needed. It is a major subdivision so they have to file a map. Mr. Madeo agreed that they have to file a map but they do seek waiver requirements for things that are required for much larger subdivisions that Mr. Azzolina included in his report. This is really a major significantly because of the sewer extension. It is not a major because of what it is on the lots. It is a major because of that pipe that is going to go under the street.

Mayor Romeo wanted to address some of the comments from the neighbors. First he wanted to say that he is heartened by the fact of their civility as they talked to the Board. It was a pleasant surprise to hear that everyone had comments but they were done in a fashion that didn't make the Board look like the enemy. He understands where they are coming from because they are the neighbors that this most effects so he thinks there are a couple things that he needs to address with them. First of all, the zoning ordinances that were put in the Borough of Cresskill didn't come in until probably 1945-1950. Ninety-percent of the houses in the Borough of Cresskill are on undersized lots. It is 100 x 100 and wherever you go, you very rarely run into a 100 x 100 lot. If you have 5-7% of the total houses in that R-10 zone that are on 100 x 100 lot, that would be a lot. As you can see on your street, that may be the only 100 x 100 lot on the block, the majority are smaller. Mr. Madeo eluded to the grandfathering of these lots. Mayor Romeo wanted to explain that so they understood. When the Borough in their infinite wisdom back in the '20s, '30s, and '40s sold off these lots, they sold them in 20 foot parcels. People would come in after they accumulated two 20 foot parcels or two 25 foot parcels and they would submit an application to build a house, thus in the '30s, '40s and early '50s they were granted houses on the 40 and 50 and 60-foot lots. They were all undersized, but the people couldn't afford to buy anymore property so up and down the street all the Cape Cods and Colonials that you see are on undersized lots. There is a small amount of these that were bought as building lots, but they were never built on.

About 60 years ago, there was the story on 6<sup>th</sup> Street of two 50-foot lots. The father bought parcels, 50 and 50, one for him and one for his son, so when he came back from the war he could build on his 50-foot lot. The Planning Board, at that time back in the '50s, took objection to that and showed how they had changed the ordinance and now you had to build on a 100-foot lot. There was no 100-foot lot on the street because there was all 50 foot except for this blank 50-foot property. What happened is they denied this application to build the house by the son who was living next to the father who had just came back from the war. They took it to court and the judge said to them, they bought it in good faith as a 50-foot lot, you will let him build on the 50-foot lot and he built. That grandfathered in all the other undersized lots that had a separate deed that were 50 foot and over. There is only about seven or eight of them left in the town, but they do exist.

When Mrs. Pentefalo became ill and they decided to sell the property, that is three separate deeds. They bought the middle, then Carmen bought the 25 and then later on they bought the 50. The 50-foot lot is a building lot and is allowed to be built on. If we say no to it, they are going to take us to court because it is an economic hardship to them and they are going to be allowed to build on a 50-foot lot. The builders came in, knowing what the reaction is going to be, turned around and said, you know what, why don't we try to accommodate a little bit and make it a bit more palatable so that we are not squishing a big house on a small lot and let's go with 62.5 feet. It wasn't originally going to be that way but he thinks what happened is when they went to look at the property they saw that the house was kind of run down and they weren't able to keep it up

any more and the foundation was crumbling, so they decided to come for two 62.5-foot lots. We are kind of in a bind up here.

Mayor Romeo thought Mr. Kim asked why do we have these ordinances if we have to keep coming back in. The fact of the matter is people come in for variances because they are not coming in with a 100 x 100-foot lot. If they were, they wouldn't need any variances. They could plunk the house down with the side yards set, front and back, get building permits and build. But they are automatically coming in with an undersized lot. So because they are coming in with an undersized lot, they have to squeeze the house in. We put an FAR in, which is the Floor Area Ratio, that you may not be familiar with, but about ten years ago, we had Mr. Azzolina design this with a civil engineer and put together something so that you don't see these MacMansions as they are in Closter where they have five-foot side yards and you have 30% lot coverage. We squeeze that down to try and keep the texture of the town as best we could. He knows it is crowded. They eluded to Willow Run. Willow Run has 39 townhouses. They have sold 18 of them. So far it has produced 3.2 children. He expects it will produce maybe five or six children. There is not going to be overcrowding there because he doesn't see people with children spending \$800,000-\$1,200,000 for a townhouse. So far 50% of them are gone and it has only yielded three kids. As far as the church goes, Mayor Romeo said he is not going to get into details, but he can say that there was a house of worship that applied for that property after the Lutheran Church and that is what you would have had there if we didn't go and work with the Synod in Washington, DC, to turn it into a residential area. He thinks some of them may have been at that meeting. There was going to be a different kind of house of worship there than the Lutheran Church and he doesn't think some of them would have liked what happened because especially with the religious ordinances and statutes we have today, you cannot deny a house of worship being put on a piece of property. It is discrimination. What you got is five houses, but what you would have had is something completely differently.

Getting back to this, 50 feet is too narrow, but we are kind of stuck with it. They can beat us in court. Mayor Romeo is not saying that they would, but we are talking about economics here. Before we get into all of that, we try to make do with the best we can. Almost every lot is undersized so when you come in, you are already starting with variances because you are an undersized lot and everything becomes a variance. If you have a 100 x 100 lot, you can put down almost anything you want within reason and you would need no variances. We don't like it any more than you do. The State has, in its infinite wisdom, formed two Boards, the Zoning Board of Adjustment and the Planning Board. These are to make changes in the present zoning because the present zoning is not perfect. Yes, it is more crowded. It is probably one of the most desirable towns in Bergen County to move into. Does he like this? No. But he likes this better than going to court and fighting. They are reasonable, they are here. There is more to the story, as they say, and now they are hearing it. They could have been greedy and asked for a lot more. Yes, there is going to be two families, but that is just the way it is. He thinks, knowing the builder, he will be respectful of their property. No, it is not going to become a Fairview. There are only about three or four of these 50-foot lots left. They are grandfathered in. They have a separate deed and by law they are entitled to build on that property regardless of what the zoning is today. He has had it done right across the street from him.

Ms. Fregonese asked if we could change the Zoning laws. Mayor Romeo noted that if we changed the zoning laws then there would be even more people coming for variances. The only areas where you are built on the right size properties is Stonegate and 15 houses on Piermont Road that are 150-foot lots. The ones on the hill are all on 200 x 200. They had to be that big to be able to build on them. Where we are, to change the Zoning laws you would have more people coming in for variances. Also, the State probably wouldn't let you and it would add more confusion. We have these rules to protect what we have. That's why we have the Zoning Board of Adjustment to make accommodations on old houses or the Planning Board to make accommodations on new houses.

Mr. Durakis made a motion to approve, seconded by Mr. Ulshoefer. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Moss, Mrs. Schultz, Mr. Ulshoefer, Mr. Durakis, and Mr. Mandelbaum all voted yes. Motion approved.

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**Public Hearing – Application #1475 – 4 Evans Road, Eyal Morad**

Mr. Rapaport was present representing the applicant, Eyal Morad. Mr. Rapaport noted that he has been before the Board before. He has this revision where they turned around the house and they need one variance for the

rear setback. By now, after he has met with the Board for the third time, he hopes they comply with the direction the Board has asked them to go. They have the engineer here to testify for the owner.

Mr. Chris Lantelme, Lantelme, Kurns and Associates, 101 West Street, Hillsdale, NJ, was sworn in by Mr. Schuster. He has testified before this Board many times before as an engineer and surveyor. He is licensed in both and they are both currently in good standing. He was accepted as a licensed engineer and surveyor. Mr. Lantelme noted that the property in question is Lot 9 in Block 20, known as 4 Evans Road in the R-10 zone. The lot size is 9,400 square feet, which is about 600 square feet undersized. It is approximately 118 feet wide and 79 feet deep. It is a corner lot. Presently there is a 1 ½ story dwelling, driveway, deck, patio and walkway. There is about a six foot difference from the highest point to the lowest point from one corner to the other. What is being proposed is to remove all the existing improvements, put in a two-story dwelling, two-car garage, front walk and a rear patio. He is not going to get into the house since the architect is here, he will get into it. They are proposing a drainage system to pick up the runoff from the roof. It is one seepage pit. They are removing three trees as indicated on the plan, which means three other trees are remaining. As far as zoning and variances they are asking for, he mentioned that it is a non-conforming lot, the area is undersized and one of the variances they are asking for is an impervious coverage. Permitted is 30% and they are proposing 31.4%, which comes out to about 132 square feet. The other variance is a rear-yard variance and the other non-conforming characteristic of this lot is that the depth is deficient. That is existing.

Mr. Morgan asked if they were using the same foundation. Mr. Lantelme noted that they are not using the same foundation, but if you look at the overlay, it is largely in the same place. The rear yard is actually the same. The variance they are going for is 23.9 feet and that just happens to be what the rear yard setback is today. Mr. Schuster asked how big the house is. Mr. Lantelme noted that the footprint of the house is 2,954 square feet. The existing house is 2,622 square feet. Mayor Romeo asked where the back door was. Mr. Rapaport noted that the house is facing Evans and the back door is across from Evans. Mr. Durakis asked which trees were staying. Mr. Lantelme noted that they are the two along the street, one at the corner and one on Evans and the other one is on the south side.

Mr. Uri Rapaport, Tenafly, NJ, was sworn in by Mr. Schuster. Mr. Rapaport has been before this Board many times. He is a licensed architect and his license number is 0128 and is presently in good standing. He was accepted as an expert in architecture. Mr. Rapaport just wanted to point out that the design has the setback at 23.9 instead of 30 and this number is not a random number, it is the number of the existing so basically what they are trying to do with the variance is staying about the same, which he believes makes the application more reasonable. They are not making any changes. It is about the same now as the proposed. All other aspects comply as to the zoning and the FAR has been reduced to meet the 30% requirement.

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

Mr. Ulshoefer asked Mr. Rapaport if he did the drawing. He realizes that the garage is coming out on Evans Road, but on the drawing it looks like it is coming out on the other side of the house. Mr. Rapaport said you have to turn the drawing upside down. Mr. Ulshoefer then stated that the things are labeled wrong that way. Mr. Rapaport noted that he will fix it.

Mr. Calder made a motion to approve, seconded by Mr. Ulshoefer. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Moss, Mrs. Schultz, Mr. Ulshoefer, Mr. Durakis and Mr. Mandelbaum all voted yes. Motion approved.

Mr. Morgan stated that this is approved by working with the engineer and his reports. Mr. Rapaport noted that everything in Mr. Azzolina's report will be taken care of.

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### **New Business**

Dr. Ajay Jetley was present to discuss his plans to open a walk-in urgent care facility at 46 Union Avenue in Cresskill. The facility is described as an urgent care clinic with the ability to diagnose and provide care for minor injuries and illnesses. He did not have his Letter of Introduction from Mr. Edward Rossi. They plan on being open seven days a week. Right now it is him and another emergency medicine physician, who are partnering to

get it open. They plan on getting maybe another physician and some physician assistants or practitioners to help them out too. Mayor Romeo noted that this was already approved under another name.

We did not receive a Letter of Introduction from Mr. Rossi either. Dr. Jetley said that the Building Department said they were going to mail it to him and he never received it. Dr. Jetley noted that if everything goes according to plan, they hope to open by the middle of June. They will change the signs to the new name. Mr. Calder made a motion to approve, seconded by Mr. Moss. All present were in favor. Motion approved.

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**Other Business**

None.

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

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Motion was made by Mr. Calder to adjourn the meeting at 9:15 PM, seconded by Mr. Moss. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for May 10, May 24, June 14, and June 28, 2016, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary