

# MINUTES

## CRESSKILL PLANNING BOARD

MAY 14, 2013

Mr. Galdi opened the meeting at 7:40 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call: Mayor Romeo, Councilwoman Tsigounis, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Vieni, Mr. Calder and Mrs. Schultz. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney.

\*\*\*\*

Mr. Morgan made a motion to approve the minutes of the April 23, 2013, meeting. The motion was seconded by Mrs. Schultz. All present were in favor of the motion. Motion approved.

\*\*\*\*

### Correspondence

Letter of Denial for 20 Clark Street, Cresswood Homes LLC. The applicant wishes to build a new single family residence. Because the application requests an FAR and a height variance, it must be approved first by the Zoning Board, before it can come before the Planning Board. File.

Memo from Ms. Barbara Nasuto noting the meeting schedule for July and August for the Mayor and Council. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated April 8, 2013, sending Sejal Medic, Inc. to this Board for approval. They wish to post "NO PARKING SIGNS" at 29 E. Madison Avenue. There have been issues with the customers of the Farmhouse Café whose lot has limited parking so they have been parking in the strip mall lot causing less parking for the patrons of the strip mall. Ms. Sweta Shah, as well as many other store owners, was present. The example attached noted "Customer Parking Only."

Mayor Romeo noted that he is not sure what we can do. We have to get the police involved and he is not sure if we can enforce this because it is private property. Mr. Schuster was asked to look into this at the last meeting. He noted that some other municipalities like Hackensack and Tenafly have an ordinance about enforcing it on private property. Tenafly refers to the State statute about parking that doesn't really cover it. Probably the way to do this is the town would have to adopt an ordinance to permit this. Whether or not the town will enforce it is another story. What they do in Hackensack, as an example, is they don't really issue a summons but you get towed basically for trespassing on the property. The problem with doing that is when you see somebody's car is there parked illegally, you call a tow truck guy to come there, and it will probably take them about a half hour to get there. In the meantime, the person comes back, gets in their car and leaves. When the tow truck arrives he doesn't care what happened to the car, he is going to want to get paid to make that trip. As an example, with the condominiums, what we do as part of our resolution is get permission to go in there and enforce the traffic laws and not just parking on those properties. He thinks the way to do this is for the town to adopt an ordinance that would permit people like the store owners and building owner to do some sort of enforcement on their property. Once you start to tow people away, just be wary about what the possible consequences are going to be.

Mayor Romeo asked if anybody present wished to be heard. Mr. Galdi suggests that you contact the people owning the strip mall to put in signs that say parking for people doing business in that establishment only or the vehicles will be towed away at their expense. Mayor Romeo noted that was one of the sample signs they presented. Ms. Hasmig Kopooshian, owner of Willow St. Barbershop, stated that she sacrificed from being on the main street. She wanted to go to 29 E. Madison because of the parking. She wasn't getting coverage on the main street, but the parking there was key. Having the parking there for her customers, many of whom are seniors, is an advantage for them to be able to park there. A majority of her customers have complained to her and her landlord because it has become extremely difficult and sometimes impossible to find parking. She pays for the use of these parking spots for her customers and when they can't park she loses business. This is a private lot and her landlord should be allowed to post signs to protect his tenants. She showed photos of Kings' signs that say "Parking for Kings' customers only – all others will be towed." She also showed pictures of her lot on Thursday, May 9, at 1:00 PM and in their lot there was not one spot to be had. It has really become a problem.

Danny Noseworthy, owner of Cresskill Tavern, wished to be heard. Mr. Noseworthy noted that when he rented his store almost four years ago, he had a reasonable expectation of parking availability. Now he has none because of the Farmhouse. The property that he is in is owned privately by Sejal Medic. This is not a municipal lot. Farmhouse is not part of the plaza. Their property is owned by John Manfredonia. He questioned the Board about how the Farmhouse got approval for 60 occupancy with 10 spaces in their parking lot. They also have 20 seats outside. Mayor Romeo noted that they made him cut down his seats inside. They sent the Fire Department over there and made them take out some of the seats. Mr. Noseworthy stated that they still have 60. He spoke to the Borough Official. And the town put up signs in the street that say "No Parking" because they were causing a traffic problem. Now it is insane.

Marty Farrell of Cresskill Pizza wished to be heard. Mr. Farrell stated that this may not be pertinent to the parking, but the question that he had is that when he came before the Board about five or six years ago, when they were considering buying Bondi's, they were advised that yes they could buy it, but they would be limited to about four, six or ten seats because of the limited parking spaces, which then caused them to deal with Mr. Baretta and rent the property he is in now. Since then, or at the same time, you have the Farmhouse going in there with nine or ten spots for 60 (give or take) seats. You have the Sweet Spot on the main drag that has 13-14 seats with no parking. Then you have Ray's, which has 40 seats, that originally had six spots. He then went on and built an addition behind his property for storage or whatever, that took away two spots, that leaves four spots for 40 seats. He assumes that part of that is the apartments have some requirement for parking in there, probably one per apartment. He should have 10-12 or 15 spots for his customers and he is down to two. The addition that he made to the property, he is assuming that when he rented the place or bought it, he had an easement or it was grandfathering in those six spots that were back there. He took away two. He knows when he built his porch he needed an easement to go another foot out 15 years ago. He takes away two spots out of the required number and according to Mr. Baretta he never received any easement letter, and he is within 200 feet, Adam never received one and Mr. Farrell never did either. He doesn't know if there are different rules or if he is just missing some of the rules. Also, there is a fence behind the deli, which is owned by Nick Dippolito, that goes from Rich's property all the way around on Yaz's property up against the Farmhouse that is constantly being torn down. Mr. Dippolito went out and repaired that fence about a year and a half ago or a year ago. Within a month it was torn down. What happens is people use Rich's lot or Yaz's lot to go on the main drag shopping or to go into the other stores up there. It is upsetting.

Yaz noted that the chain links are slid over to make an opening. Just two days ago a delivery man for Ray's pizzeria was using his parking lot because there was too much traffic to make a turn by the gas station or onto Union. Someone is literally cutting the links and pushing the chain link over so there is an opening. Mr. Farrell stated that there is probably about a foot elevation between Mr. Dippolito's lot and Yaz's lot. He doesn't know if that fence is a "convenience" fence to be used or if there is some sort of regulation that the fence needs to be there because of the elevation difference and the safety factor.

Mayor Romeo stated that he is listening to everyone's comments and before everyone leaves he would like them to give their name, affiliation and phone number so they could be contacted for a meeting before the next meeting to sort this out. Mayor Romeo addressed Mr. Farrell and stated that there are

not different rules for everybody. We will enforce this and get to the bottom of it. The second thing is, if we were to go by the code right now, he knows this may sound a little strange, there is only one store that has enough parking and that is Kings. He would have to close everybody else down. Obviously, we have to look the other way because downtown is alive and well. We are prospering because we are business friendly and the business community tries to work with each other. This is important that we solve this problem and get everybody on the same page. Mr. Farrell noted that he appreciates it, but the issue with the different rules is he understands the problem with parking and he understands you have to make some judgments to keep everybody in business, but the fact is when they made the approach to buy Bondi's back 5-6 years ago, the situation was exactly the same then as it is now and when he did it he knows Bondi's was using the bank lot unofficially. He was figuring that if he was going to sink a couple hundred thousand dollars into this building, he wanted to get a formal easement to allow him to use the property. The owner of the bank refused because of the, at that point, planned construction.

Mayor Romeo stated that the Borough of Cresskill has been granted an easement by every property owner that faces Union Avenue on the north side. Allen Street now is controlled by the Borough of Cresskill. We have easements to put in an extra 60 or 70 spots. The plan is now being put together as we speak. When this is done, that will become a municipal lot. You will be able to walk through from the bank parking lot or, he thinks Mr. Wolfer is about to start his construction on the old Oxy Building, and there will be a promenade through there about 12 feet high so you will have an alleyway through there so you will be able to park in the parking lot and walk through. That is quite a distance to get to Mooseheads, but at least it is something to maybe alleviate some of the people that park on Union that can park behind. He doesn't have all the answers. We were not ready for this tonight. Now that we are all here, he is happy to listen to what everybody has to say, and we will have another meeting and get everybody in the room and get everything solved.

Mr. Farrell noted another issue that he thought Mayor Romeo would appreciate from an insurance point of view. There are times that people use his store as a pass through. They will park in Yaz's lot, walk through the store, maybe wave hi, go out the front door and go someplace else. That is another issue. Yaz noted something that happened yesterday. His own staff, depending on the shift, he had a pharmacist that is not that mobile and she was scheduled at 12:00, and she couldn't find parking in the parking lot. She had to park far away. He said that this has been going on for quite some time. This is only one instance.

Mayor Romeo asked if the people present felt these spots were being occupied by the Farmhouse employees or people going to the Farmhouse Café. Ms. Kopooshian stated that she wishes every business the ultimate success, but they never had any issues until the Farmhouse opened. She is glad they are successful, but for them, she had a customer double park today because the person was elderly. There are literally no spots. Yaz informed the Board that where Burgdoff's used to be, they are entertaining the idea of a Starbucks. They have come to look at it. With the traffic that they will carry, it will be more of an issue. Right now they are not committed yet but they asked if parking would be an issue. They have no parking for their own tenants. When they came to look at it, they came at a time in mid-afternoon when it wasn't as busy as it normally is during lunch hour. They need a tenant in there. They don't know what to do.

Mr. Noseworthy stated that he has gotten to the point where he has actually put cones out in front of his store so his old-timers that come in during the day can park. He is not getting rich over them, but that is their daytime activity. If they can't park right there, they are not going to come. Today, some lady in a huge SUV went and rode right over the cone and parked. She didn't move it, she ran over it and parked. And she went over to the Farmhouse.

Mr. Farrell has seen on Saturday mornings for brunch, especially in the spring and summer, people park right across from Moose and go around to the Farmhouse. Mayor Romeo noted that the owner of the Farmhouse rents a store in Yaz's plaza. That is another dilemma. Now you get into which store are you going to? He is trying to figure a way where these tenants make a lot of money. He is thrilled that there is a lot of traffic in town, but we can't be fighting. Mrs. Shah stated that they have a tow company that is willing to have an employee stay there for the first week or so just to monitor the traffic and if anybody is

going to the Farmhouse, they are willing to take the car right there and then. They are willing to do that if we can put the sign up.

Mayor Romeo realizes that this is not the way they really want to go. Adam Farrell noted that it is actually taking away a little bit of cooperative competitiveness in the town. This town has two pharmacies, two deli/bagel shops, two pizzerias two doors down. Being a resident of this town and owning a business in this town he has had to change his attitude towards little things like road rage and people cutting you off here and there because they could be his customers one day. If he tells people you can't come to my parking lot because it is my parking, one person has a bad word, they tell ten people and word spreads. In this case, it makes him the bad guy.

Mayor Romeo noted that everybody's points are well taken. The one thing he wants is the downtown to absolutely thrive. You cannot have an empty store because you can never replace that month's rent. We need to fix this. We are going to have a meeting, with the Borough Engineer and the police, and see if there is a way to reconfigure this parking and all work together to get this thing done.

Mr. Schuster stated that he doesn't think there is adequate parking for what is there now based on what the ordinance says. Mayor Romeo doesn't think there is any store other than Kings that has adequate parking. Mr. Farrell noted that they might be a few spots short, but typically there are only two or three stores that have a parking demand. They have never had a problem before.

Mayor Romeo wanted to caution everybody of one thing. When we sit down and we go through all of this, everybody is going to leave the room a little unhappy. It is not going to be a 100% win for anybody because it can't be because you are all striving for the same thing. We are going to have to try to figure out a way until we get the parking done over on Allen Street to accommodate all of you and make sure that one establishment is not ruining it for all the other establishments. He is not saying he is doing it on purpose. Mr. Noseworthy doesn't understand why we are trying to make it fair to Farmhouse. He has no claim to Yaz's property. Mayor Romeo said that we will make it fair for Yaz's tenants. He will call a meeting within the next week to ten days to resolve this. He didn't realize that this was this bad. Everybody put down their name and number and their affiliation.

Yaz doesn't understand why the seating wasn't checked out when they came in for the approval. Mayor Romeo stated that Mr. Manfredonia gave them additional spots which qualified them for the parking. They were also supposed to take some seating out. He will have the chief go there tomorrow and do a seat count.

Letter from Mr. Edward Rossi, Construction Official regarding Mr. Walter Guenther, 73 Cedar Street, next door neighbor to 79 Cedar Street, Application #1431, Avi Lavon. Mr. Rossi states that since 1965 Walter Guenther and the neighbor have shared the driveway allowing access to Mr. Guenther's garage. The house was built in 1926 and the driveway has been shared from then to now. If the Board allows Mr. Lavon to build the house he is proposing, Mr. Guenther will lose the access he's had all these years. Mr. Rossi is asking the Board to create an easement to maintain this access, or whatever the Board feels will protect this elderly long-time resident from being unable to access his driveway. Mr. Guenther was present.

Mr. Guenther stated that he spoke to Mr. Rossi about the situation in the letter. He said to come to the meeting. He spoke to Mr. Lavon. Mr. Guenther didn't know anything about an easement. Mr. Lavon said not to worry about the driveway because his new house driveway is on the other side. Now the situation is if the new owner of 79 rips up the driveway and plants shrubs there, he cannot get to his garage. The garage is a little bit behind the house. The situation is he doesn't know who the owner will be so Mr. Rossi recommended an easement. Originally he thought, because he didn't know about an easement, that he could maybe purchase five feet of the property and then he would be OK. His situation is also if he wanted to sell the house in a couple of years, he would have a problem if he doesn't have a guarantee with an easement that the new owner couldn't get to the garage. That is a big problem. That is the reason he is here today and he doesn't think Mr. Lavon is in agreement with the easement. The new house has the driveway on the other side so to the new owner, that side is just a little stretch of property

and he doesn't understand why he doesn't agree with the easement. He needs a guarantee that in the future, when the house is built, that he has access to his garage. He will take legal action if necessary.

Mayor Romeo asked Mr. Guenther how long he has lived in Cresskill. Mr. Guenther noted that he has lived in that house since the 1960s. The neighbors were like family and they never worried about the joint driveway and now this situation came up. Now he has to guarantee for the future. He needs an easement. He doesn't know what the ordinance in town is and he needs Mr. Lavon to agree. Mayor Romeo asked Mr. Lavon how many feet was involved. Mr. Lavon stated that he is talking about five feet, but he moved the house 20 feet from his side to give him the space for the driveway. He told Mr. Guenther that there is no problem, he is giving him the space, but he wants an easement. He changed the whole house to give him space.

Mayor Romeo stated that this has happened twice before, once on Broadway and once on Jefferson. On Jefferson they built a whole new house and found out just when they were going to move in that the driveway was on the other person's property. What we did was we got them in a room and worked it out where there was an easement granted in perpetuity so that that property you are building could continue to be sold and sold without any problem and his property could also continue to be sold in perpetuity so we wouldn't have this problem. Whether you are going to be neighbors or whether you are going to move out and sell it to someone else, we need to work this out. Mr. Guenther is getting an easement. It is not going to impact on the value of Mr. Lavon's property. Mr. Guenther needs to get into his garage. Mayor Romeo stated that he didn't have all the particulars but that is what he has the experts for.

Mr. Schuster noted that we can require that as part of the approval. Mayor Romeo asked Mr. Blake to figure it out so Mr. Guenther can continue to get to his garage. Mr. Guenther asked what happens if Mr. Lavon disagrees to the easement. Mayor Romeo noted that Mr. Lavon will not disagree with the easement. He will bring his experts, the town will have their experts and Mr. Guenther will be in the room and they will work it out. Mr. Azzolina noted that he wondered about this situation when he drove by the house and now he is aware of it. Mr. Guenther wants to make sure he gets a legal document for when he sells his property. Mayor Romeo assured him that he will get that.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated May 8, 2013, sending Mr. Avi Lavon to this Board for approval. He would like to build a new single-family home at the above location. He will require a technical variance as shown on the plan. The plan was prepared by Chris Blake. Mr. Blake noted that the technical variance is an existing non-conformity. The lot is too narrow. There is no other variance.

Mr. Azzolina noted that he just learned about the driveway situation tonight. He hasn't been able to complete his review on that. He picked up the house plan tonight. He will take into consideration the neighbor's issue. He has to confirm that everything is in accordance with the code. Mr. Lavon asked if the plan can be approved tonight subject to Mr. Azzolina's approval. Mr. Azzolina stated that that is a little premature. Mr. Galdi stated that he thinks that they should meet and go over everything and see how it can be worked out. Mr. Azzolina believes everything can be resolved in the two weeks, plus you don't yet have Bergen County Soil Conservation approval, so he wouldn't recommend final approval until you have that approval in hand. In order to demolish the existing house, you need to have Bergen County Soil Conservation approval. Mr. Lavon noted that last time he got approval subject to Mr. Azzolina's approval. Mr. Azzolina stated that last time was a little bit different in that the plans were a little bit further along in the review. He only received the engineer's plan and the architect's plan today. Mr. Lavon stated that he brought Mr. Azzolina the plan on Wednesday night. Mr. Azzolina noted that he got them on Thursday. Mr. Lavon noted that he is going to bring the Soil Conservation approval to him and whatever else he needs. He eliminated everything. There are no variances, no retaining walls, no impervious, no FAR, everything is conforming. Mr. Azzolina noted that that is Mr. Lavon's finding. He has to review the plans and confirm that that is in fact the case. If it is the case, he will have an approval at the next meeting, which would be one in the same time frame that they are talking about. Given the dates of the submittals, he thinks it is fair that they defer to the next meeting.

Mayor Romeo stated that Mr. Schuster will call Mr. Lavon and Mr. Blake and will work out the thing with the deeds and get it all done by the next meeting and you will be ready to go. Mr. Azzolina will be working with the applicant's engineer relative to the survey issues related to the driveway. He has been informed that currently the plans show that driveway being removed, which based on tonight's conversation, that can't be the case. The plans have to be revised to say "to remain" and then they have to talk about the mechanism for the easement.

Mr. Blake stated that if they put the driveway back in, they will be over on the impervious and they will need an impervious variance. Mr. Azzolina stated that if they are over on the impervious, they will need a public hearing. Mayor Romeo asked if it would be de minimus the impervious that they would be asking for. Mr. Blake stated that it would be 3% over on the impervious. The Board agreed that by keeping the driveway in to help Mr. Guenther, he is causing himself a hardship, and the Board would go along with the 3% over on the impervious.

Mr. Lavon wanted to know why Mr. Guenther couldn't move his driveway to the other side of the house, because there is space on the other side of the house. Mr. Guenther noted that that wouldn't work. Mr. Galdi said that they will send Mr. Azzolina up to the house and try to get this resolved.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated May 13, 2013, sending Ms. Karoline Cakirdas, Keremo Cakes, LLC, to this Board for approval to put up new signage at 18 Union Avenue. The owner of the building is John Manfredonia. Ms. Cakirdas was present. She explained that it is a 3-D wooden sign of the logo with the website in one corner and the phone number in the other corner. There will be no awning. Mr. Morgan made a motion to approve, seconded by Mrs. Schultz. All present were in favor. Motion approved. Letter sent to Mr. Manfredonia stating the Board's approval, with copies to Mr. Rossi and Ms. Nasuto.

\*\*\*\*

#### **Subdivision Committee**

Councilwoman Tsigounis had nothing to report.

\*\*\*\*

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

Mr. Azzolina had a report for 236 Grant Avenue, Application #1432, Ezra Sofer and Orna Ben-Or. He distributed the report to the applicant before tonight's meeting. The owners and architect were present. There are a couple of questions that need to be addressed. Mr. Raul Mederos is the architect on the project. Mr. Raul noted that they had previously submitted architectural plans and site plans for the proposed new construction at 236 Grant Avenue, which is a corner lot. The proposed design conforms to all of the zoning criteria. The existing lot conforms to the zoning requirements of Cresskill and the proposed design of the new construction is also in conformance with the zoning laws in town. No variances are required. Plans of the house were shown. They will tear the house down. The house will face Grant with the driveway on Short Place.

Mr. Azzolina agrees with Mr. Mederos' comments about the conformity to the zoning. The only exception would be relative to that existing fence if it were to be maintained. One of the comments in his review letter was what is the proposal relative to that fence? It is in the front yard of Short Place where the fence height cannot exceed four feet and it is actually a six foot fence. His assumption is that the applicant is probably going to remove it anyway because it is kind of dated looking. That needs to be stated on the record or clarified. The owner, Ms. Ben-Or stated that the fence is new because the neighbor's tree fell while they were under contract. She requested them before closing that they put up a new fence at that height only because she knows that the school is there and a lot of kids walking back and force. She didn't want an open fence. Only part of it is new. Mr. Azzolina pointed out the chain link fence on the plan. It wraps around Short Place and basically stops short of the driveway. Theoretically they are only

allowed a four feet fence not closer than 10 feet. The fence in its location, as well as the height, is non-conforming with respect to the zone. If that were to be maintained the Board may look at that as a variance condition. That is for the Board to determine. It is a six foot fence. It is not labeled like that on the plan, but it is a six foot high fence. His initial thought was that it was going to be removed. The fence doesn't go all the way down to Grant. It terminates at the existing driveway. Since this is a corner lot, you can't be higher than four feet and you have to be 10 feet behind the street line. Theoretically you can have some sort of obstruction to your line of sight, which in the reality, given the gradient here, it is not a fact.

Mr. Sofer stated that the fence itself doesn't look so nice with new construction. Mr. Azzolina agreed that it looked kind of like a 1960s style fence. They will probably put a new one up and they could adjust the height. Ms. Ben-Or stated that they didn't want a broken fence while they were owning the property and then spend the money and have the town tell them they can't leave it that way because there are kids walking down the block to school. Mayor Romeo stated that they need to lower it to four feet. He explained that when you pull out of Short Place, there is a vision problem when you look to the left and to the right. If you bring it down to four feet, he doesn't see that it would be a problem. Mr. Sofer agreed that with new construction, he would like to have something that looks better. Mr. Azzolina stated that that was his assumption but the engineer needs to state that on the plan and provide the detail for the new fence. Similarly, along the southerly property line, there is a small retaining wall, approximately two feet high with a four foot fence on top of that. He doesn't know what the proposal is relative to that. That is a backyard. The engineer stated that nothing is planned for that yet.

Mr. Azzolina explained that of greater concern is the retaining wall along the easterly boundary. That wall appears to be in not good condition. The thought was that that would be reconstructed as part of this application. Also to control any water that would originate from this property to make sure that it is not running off to the neighbor on the east. It is quite a steep gradient to the neighbor to the east. He would recommend that the wall be reconstructed to ensure that no water sheet flows down the slope. It should be directed into a swale bringing it out to Grant Avenue as opposed to down the hill into the neighbor's property. The engineer stated that regarding the retaining walls on that side of the property, there is a pretty big drop, but there is a retaining wall and then there is more property and then there is high retaining wall, maybe four feet. The reason why there is break is because there is about a three feet diameter tree in the back corner on the property line.

Mr. Azzolina asked if they were going to be removing the concrete stairs and the concrete patio. The engineer stated that the patio is going, and the concrete pavers are going as well because they are putting in a new patio in the back of the house. Mr. Azzolina noted that there is a concern relative to the stairway that is adjacent to the concrete wall. If there is a way to remove it, his initial thought in looking at it in the field, is that it didn't appear to be a very stable unit. The engineer agreed and added "or useful" once they get rid of the other concrete. The engineer said that they could remove it and bring the landscape wall over to the existing concrete wall on the side. Mr. Azzolina agreed that that would work. It seemed to him that there was going to be a future issue with the neighboring property once this site gets developed. Now is the time to address it rather than later. The engineer stated that he really has to look at it a little closer because what he is afraid of, and he was there tonight, about four or five feet away from this retaining wall, it drops down and it's another retaining wall, and that retaining wall is not very stable because it is really loose block or stone. Mr. Azzolina agrees with his assessment. The engineer stated that he has to be careful because he doesn't want to mess up the neighbor. Mr. Galdi mentioned that you have to be careful about having a hydraulic issue behind the wall. The engineer stated that they can do something to direct the flow between the landscape wall down that side of the property. They can put a swale. It is a slope down, especially if they got rid of the stairs. Mr. Azzolina noted that that is something that the applicant has agreed that he will look into. He is fine with that. The engineer agreed that they can work something out.

Mr. Azzolina stated that the other comments in his report are minor in nature, typical detail requirements per Borough Code, plan legends, etc. The engineer didn't see anything that they can't agree to. On that basis, Mr. Azzolina recommends to the Board that they approve the plan, subject to the further revision of the drawings. Mr. Mederos asked about comment #17 which deals with the height of the building. He

noted that the proposed construction is based on the average grade pre-construction, but according to this he can actually do post-construction and get a much nicer slope on the roof and that would be much better for the house. Mr. Azzolina confirmed that is correct. Mr. Mederos stated that the house will still be 28 feet but based on the proposed grade instead of the pre-construction grade. Mr. Azzolina explained that the height of the house is based on the existing grade which is actually how our code reads, but historically, it has always been applied as strictly the proposed finished grade. Mr. Azzolina stated that the only comment is to make sure that architectural drawing and the engineering drawings are in agreement with one another relative to the distance to the finished first floor and the ridge. If that is clear on both drawings than we will know that they are consistent with one another.

Mr. Morgan made a motion to approve, seconded by Mrs. Schultz, subject to revisions submitted to Mr. Azzolina and his final approvals. All present were in favor. Motion approved. Mr. Maderos asked when he could proceed with the permitting process. Mr. Azzolina explained that he needs to submit the revised drawings to the Borough and he can send one directly to him to expedite things. He also needs Bergen County Soil Conservation approval. He doesn't know how timely they are these days. If he can turn everything around in two weeks, we should be able to sign the plans and turn everything over to the Building Department for them to get their permits.

\*\*\*\*

### Old Business

Mr. Alex Duque was present regarding 74 Prospect Street. He got a call from Mr. Edward Rossi last Thursday. They have gone through the approval process. They got their approvals. They are currently going under the permit process. They are ready to start construction. Apparently there was a complaint from the neighbor at 72 Prospect, the Romanos. They wanted to see an actual copy of the prints just to make sure that their construction was not encroaching into their property. Mr. Rossi asked him to come to the Planning Board meeting. The neighbor is not present.

Mayor Romeo confirmed with Mr. Schuster that we issued a permit on this based on the permit extension rule. But there was no permit issued so we did that incorrectly. Then Coronas came in and complained that they were cutting down a tree. The DPW went over there and inspected a tree and took a steel rod and stuck it into the tree and confirmed that it was all rotted out and the tree had to come down. Then he asked if there was a public hearing because he had never been notified.

Mr. Schuster noted that his understanding is that the original approval required that the garage was going to stay. The garage is gone. In that sense, the permit extension act doesn't really mean anything because this is a different situation now because you did something you weren't supposed to do. Now, you kind of voided the original approval. Mr. Duque stated that we had actually discussed this when he was here and got the approval. They were requested by the town to knock down the garage. They agreed at the last meeting that it was OK to put the garage back up. It was not their doing, it was a request from the Health Department. Mr. Schuster said that it was because they didn't maintain it properly and it wasn't the town's fault that it was in disrepair. Mr. Duque stated that it was the way they purchased the property.

Mayor Romeo asked what we have to do to satisfy these people so they can build the house. Mr. Schuster noted that the problem he has with this guy is that he came in here and didn't know what he was talking about. He supplied him with something that doesn't apply to this situation at all. What he has is something about the Permit Extension Act of 2008, examples of applying it to UCC permits. That is not what we are talking about. He's looking at the Extension Act again and it does apply to municipal approvals. It is a very broad approval and extension. One of the things it is designed specifically to stop is making someone come in again and go through the whole process over again. From that standpoint, the way he sees it, if it hadn't been for the demolition of the garage, then he probably would have been able to get in under the Extension Act. That's how he sees it. Since he took it down, it is not the town's fault that it was not kept up properly.

Mr. Duque noted that when they bought it, the garage was in disrepair and due to the economic situation of the previous owners, yes they were requested to knock down the garage. He is sure if you check the minutes from the previous meeting it is there. They had to knock down the garage and pull permits in order to please the town requirements. The last meeting it was accepted that it was not their wrongdoing it was just something that the town requested. Mr. Galdi stated that it was a health hazard and that was why it was taken down. Mayor Romeo noted that the rest of the house was all approved and done. The neighbor built a very similar house right next door and went through the same process. Other than knocking the tree down, did this guy have any other issues. Mr. Schuster noted that he was bent out of shape about the tree. Then he was bent out of shape about a rodent infestation, which goes back years. He said he was not notified about what was going on. Mr. Duque stated that part of the problem with the neighbors is that approximately eight months ago they had some planters that were encroaching on their property. They requested in a very nice way to remove them and put them back on their own property. They did not agree so they had to come to the town and make a formal complaint. The town had to send somebody over to say yes they were encroaching into their property about four or five feet, and this is their way of paying them back.

Mr. Schuster was reading the Permit Extension Act and it talks about extending an approval issued by any municipal, county, regional or state approval or permit granted on the general authority if heard by State law or rule or regulation. This says approval even though a permit was not issued. His issue is with the demolition of the garage which was supposed to stay based on the original approval. Mr. Morgan believes that what we approved is for him to put the garage back in the same spot. Mayor Romeo feels that other than the neighbor looking at the plan, he doesn't have an issue with them starting to build. Mr. Azzolina believes that he has some comments in his letter from two years or so ago that are still out there that need to be addressed. Mr. Duque thinks that as far as he is concerned, he has addressed all those comments. He thought there were some changes that needed to be done on the plot plan and he thinks they were done. Mr. Azzolina doesn't think he has seen them. Mr. Duque says he provided them the revised plans. Mr. Azzolina stated that one of his concerns was with the third floor and asked if that was addressed. Mr. Duque stated that there were some questions here at the last meeting and he stated that he was not going to finish the third floor. He has the plans and presented them to Mr. Azzolina to look at.

Mayor Romeo suggested that Mr. Duque bring the plans to the neighbor so he could see them. Mr. Schuster will write a letter to the Board regarding the Permit Extension Act. Mr. Galdi told Mr. Schuster that the letter must include that it was a diseased tree and an unsafe tree and for safety reasons it had to come down. Mr. Schuster noted that the tree doesn't mean anything because it was never part of the approval. Mayor Romeo stated that Mr. Schuster will write his letter and Mr. Rossi will address the tree removal with the neighbor. He will tell him that if he wants to see the plans they are here and he can take a look at them and we acted within the letter of the law. Changes are being made to the plan vis-à-vis our Borough Engineer.

\*\*\*\*

### **New Business**

None.

\*\*\*\*

### **Other Business**

None.

\*\*\*\*

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

\*\*\*\*

Motion was made by Mrs. Schultz to adjourn the meeting at 9:10 PM, seconded by Mr. Morgan. All present were in favor. Motion approved.

\*\*\*\*

The next four regular Planning Board meetings are scheduled for May 28, June 11, June 25, and July 9, 2013, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary