MINUTES

CRESSKILL PLANNING BOARD

MAY 8, 2012

Mr. Vaccaro 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, Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Vieni and Mrs. Schultz. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney.

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Mr. Galdi made a motion to approve the minutes of the April 24, 2012, meeting. The motion was seconded by Mr. Morgan. All present were in favor of the motion. Motion approved.

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Correspondence

Letter from Cresskill Fire Chief, Christopher Ulshoefer, indicating that in the past the Planning Board has submitted plans for review by the Fire Chief, and he would ask that the Planning Board continue to have the Fire Department involved with future construction throughout the Borough. File.

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Subdivision Committee

Councilwoman Tsigounis noted that a new application was received. Application #1421, 30 Clark Street, Belgorod, Inc., was received on April 27, 2012 and is currently under review. Mr. Azzolina noted that this application went to the Zoning board previously and received variances to do an addition. His understanding is that there was a mold problem encountered and the general contractor took it upon himself to demolish more than 50% of the dwelling and a stop work order was issued. They were directed to appear before this Board. We have received a site plan from the applicant's contractor at the end of last week. He promised them he would do an expedited review of that plan. They have reviewed the plan and prepared a memo. It is substantially complete as presented. There are minor revisions required. No public hearing is required, assuming that they are able to confirm that the building height is compliant. He believes that they can do that, in any event, by modifying the roof pitch if necessary, but there were some errors in the original architectural drawing and on the engineer's calculation of the average grade. Based on the current numbers, it would be higher than 28 feet. They can adjust the grade and/or roof pitch to come up with a compliant height. There is also a transposition error with respect to the impervious coverage and the FAR that is permitted for a small lot such as this. The FAR that is in the proposal is the impervious coverage and the impervious coverage value is the FAR. The house, he believes, would comply FAR wise. The impervious coverage is most likely over currently, but they are proposing to widen the driveway so any overage they could simply adjust the driveway width to come up with a compliant impervious coverage.

Mr. Azzolina stated that with those modifications and the other revisions that are enumerated in his memo dated May 8, the applicant would be able to comply with the Zoning ordinances. The homeowners have presented the Board with some photographs of the mold that was talked about. Mrs. Kogan, the owner, stated that they were unaware of what the builder was doing. Mayor Romeo noted that his concern is

with the builder and that he has to be more careful. He should have contacted the Building Department when he saw the mold and this would have all been avoided. He asked that the owners keep an eye on the builder.

Mr. Azzolina recommends that, if the Board is agreeable, to approve the plan subject to them revising the drawings within the next week or so, and rather than them having to wait another two weeks for the next meeting, he would coordinate with Mr. Rossi and the Building Department and let him know that the plans are OK. They have given us the seepage pit design and basically there was a house on the property already. There is a small addition proposed, a deck in the rear yard, so there is not a significant difference. Mr. Galdi asked about drainage. Mr. Azzolina stated that there is a seepage pit to control the runoff from the roof area, which is just a small increase from what was there. He is satisfied with the design as it is presented relative to the drainage.

Mr. Galdi made a motion to approve, subject to the engineer and the owners complying to all that was previously stated. Mrs. Schultz seconded the motion. All present were favor. Motion approved.

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Report from the Borough Engineer's Office

Mr. Azzolina noted that the other application that is in the process of being finalized is the Cresskill Plaza application, 6 Madison Avenue Associates, LLC. They recently received revised site plan drawings. The Building Department received some architectural drawings. They compared those drawings to the drawings that were presented in 2008, when the application came before us for the second time (it actually started in 2007), with the proposed two buildings instead of the one big building. He prepared a memo to report to the Board which summarizes the submission status. It is currently incomplete. They need to provide additional information. Mr. Vaccaro noted that some of the revisions have already been made. Mr. Azzolina stated that Item #2 in his report where he noted "Material Deviations from the Approved Plan" in regards to bedroom counts, the heights of the buildings, the fourth floor that was for some access to the rooftop mechanical equipment, all of which are currently in the process of being revised. Everything is being brought down to the approved elevation. Number III. is the "Stormwater Management." The current plans reflect a permeable paver parking lot area. He is still waiting for a stormwater management report that quantifies the impact of those facilities to demonstrate that they comply with our code under Chapter 226 in that this is a Major Development. You must comply with the State stormwater management requirements, which most likely they do, but he just hasn't provided him with the calculations to demonstrate that he has. Mr. Galdi asked Mr. Azzolina if he has already asked for this. Mr. Azzolina stated that he has asked for it.

In the third item, "Lot Consolidation Plan," included as part of this was reference to an application that had originally taken place in 2002 to subdivide off the apartment buildings. To correct those deficiencies, a subdivision plat is to be prepared. He believes they are working on that. Item IV is just the applications to other agencies. He talked to the County and they are awaiting the return of the Developer's Agreement from the applicant. We require a Developer's Agreement on the local level, which is in the process. He is not sure if the Fire Department or Police Department have looked at these plans. Mr. Vaccaro noted that the Fire Department has looked at it and has given them a list of things he needs. There are certain State approvals, if necessary. He is unable to quantify some things like the treatment works. One thing that is a little undefined about this project is they are showing a space that they are anticipating a restaurant being there with an outdoor seating area, but they never really defined it. It is difficult to do when you have a spec building, how many seats there are in the restaurant and that's the standard that is used to calculate the wastewater flow. If you are greater than 8,000 gallons, you need to get what is called a Treatment Works approval from the DEP. If you are under that, which they currently are, based on strictly retail use and the 28 apartments, they will be under that number, but depending on what happens to that restaurant space, they may be over.

Mr. Azzolina noted that with the shared parking agreement that was agreed to, they have a surplus. The Appendix is basically a recitation of the technical aspects, many of which were restated from the earlier 2008 report. Some are further elaborations of what was previously stated with regard to the bedroom

count and the building height, all of which are going away, so you can basically disregard those comments. They are here just to present in written form all the concerns.

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Old Business

None.

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New Business

None.

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Public Hearing – Application #1412 – 265 Piermont Road

Mr. Mark Madaio, was present representing the applicant, Mr. Jacob Vivat. Mr. Madaio noted that they have already submitted the affidavit of service. The application is 265 Piermont Road. They have a lot that has a large house next to it. They have 20 feet of road frontage. They don't know how or when the lot was created. On both sides there are fairly large lots with nice homes on them. They are left with a lot with 20 feet of frontage. That is the first variance that needs to be discussed. When you place a driveway, it has to be 10 feet from each property line. If you do the math, you cannot take a 10 or 12 foot driveway and place it in the middle of a 20 foot opening and wind up with 10 feet on either side. That is one of the variances. There are other variances that are long since grandfathered regarding the lot. The frontage is one and there are others that they have nothing to do with and they are not changing. They are in existence since the lot was created and they are not changing. The other variance they are here to talk about is the house has to have a 15 foot side yard setback on one side and a 15 foot side yard setback on the other side. They have that, but the total side yard, the 15 plus 15, have to equal 35. The total side yards are 35, while your side yard per side is 15 feet. Their side yards meet the requirements by being 15 on each side, one is nearly 16, but they do not meet the total of 35. Their total is around 31 feet, which means the total side yards on this lot, the deficiency is something less than the width of the table, while still meeting both of the side yard requirements.

Mr. Madaio stated that theother item that is a little bit unique about this lot is that they actually appeared before this Board last Fall. At that time, the Borough Engineer suggested something that he hated, but it turned out to be a good suggestion, which was, they always do their applications and then they go to the County and then they go to the State and then they go get DEP. The problem is, when that occurs, if they have changes, they then take the Board's approval, run to DEP, DEP supersedes everything they do, and they have to run back here and say this is what DEP told them. In this occasion, and it turned out to be a good suggestion, they went to DEP first. DEP essentially placed this house. They have no wetlands, but they have stream encroachment. The back of the house is slightly in the flood hazard area. DEP has instructed them on how to build the house, which is to say no basement, flood grates to let water pass through, crawl space only below, they have fixed the elevations of the house, and essentially they won't let them move it any further back and he doesn't think the Board would care that they move it any further front where that lot starts to get narrow. Essentially the placement of the house has been dictated by what DEP will allow them to do. If they didn't have those flood hazard areas in the back, they could move the house back three or four feet and be fully conforming. The lot gets wider and if they move the house back three or four feet, they meet the side yards. Unfortunately, this is the only place they can put the house. Mr. Galdi noted that the lot is dictating the position of the house. Mr. Madaio agreed.

Mr. Madaio noted that this lot had a very small single family home on it for many, many years. It was somewhere between kind of charming, and very small and old. In either case, it didn't represent what anybody would think of as a modern home.

Mr. Madaio has his engineer here today to testify. The architect was unable to make it. Mr. Robert Roselli, 2 Sylvan Way, Suite 303W, Parsipanny, NJ, 07054, was sworn in by Mr. Schuster. He is a licensed engineer in the State of New Jersey for 12 years. He has testified before Boards in New Jersey and New York. He has done site plans and engineering work. Mr. Madaio asked that he be confirmed as an expert witness. Mr. Schuster asked Mr. Roselli how many times he has testified before Boards. Mr. Roselli stated more than 20.

Mr. Madaio asked Mr. Roselli if he prepared the site plan being presented today. Mr. Roselli noted that he did. Mr. Schuster marked the site plan document, with some coloration, as Exhibit A1. Mr. Madaio asked if Mr. Roselli had the opportunity to examine the lot. Mr. Roselli noted that he did a site visit and the exact measurements came from a licensed survey. He noted that the lot is 25% oversized, despite the fact that it is a weird shape. The lot is 21,000 square feet where 15,000 square feet is required. Despite that it is 5,000-6,000 square feet oversized, it still bears the problems alluded to in Mr. Madaio's opening. The driveway variance is required because you can't have 10 feet on either side to the property line. The other variance is not for either side yard but for the total side yard. Mr. Madaoi noted that there are other variances that are pre-existing. None of those relate to the structure, but relate to the configuration of the lot. They are not stretching the lot, making it shorter or chopping anything off.

Mr. Madaoi pointed out the existing lot on the left side of the plans. He pointed out the existing house and existing detached garage that was on the property line. Mr. Roselli agreed. The detached garage is to be removed. The existing home has already been removed. The home was three to four feet from the property line. Even though they need a variance for total side yard, they don't need a variance for either side yard, and compared to the existing conditions, one side yard was currently three to four feet and the other side yard was virtually non-existent. Mr. Roselli agreed. They are creating a single-family house that has 15 feet on either side, even though it requires a variance, it still is much further from the side lines than what the existing structures had.

Mr. Madaoi asked what DEP approval they were required to get. Mr. Roselli noted that they are building in a flood hazard area, as is noted by the blue lines on the plans. There is also a riparian zone of the Cresskill Brook, which is within 300 feet. They obtained the approvals from the DEP. When they obtained the approvals, they were told where to place the house. They could move the house back, but the DEP encourages you to build outside the flood hazard area (outside the blue lines on the plan). The area outside the blue lines is actually the highest point of the property. Mr. Madaoi noted that they tried to get as much of the house as possible between the two blue lines. Despite that, there is a little bit that is back there, but the DEP has approved that. Mr. Roselli also noted that they are within 300 feet of Cresskill Brook in the riparian zone, but it is a pre-existing condition. The lot is already there. The entire property is, as well as the property next door. The entire property is within 300 feet of top of bank of Cresskill Brook and no matter where they put the house on the property, they required the DEP approval. Mr. Roselli noted that you can't avoid it. Mr. Galdi asked if that was considered a Category 1 waterway. Mr. Roselli noted that it was. Mr. Galdi asked if the plan had a DEP stamp on it. Mr. Madaoi noted that his plan has a DEP stamp on it and Mr. Azzolina also has one with a DEP stamp.

Mr. Madaoi asked Mr. Roselli if he had a chance to review the Borough Engineer's comments. Mr. Roselli stated that he did and noted that there is nothing in the report that is extraordinary or difficult to comply with. He thinks it will be OK. Mr. Madaoi pointed out #4 on the list regarding the pillars in the front of the property. He wanted to make sure that they were not in the right-of-way. Mr. Roselli noted that he was at the property a couple of months ago and those pillars are approximately 10 feet from the front property line. Mr. Vieni asked what kind of pillars they were. Mr. Madaoi noted they were stone entry pillars on both sides of the driveway.

Mr. Madaoi asked about the two 1,000 gallon seepage pits. Mr. Roselli noted that the seepage pits were not on the DEP plan. They were more of a town issue. If the Borough Engineer has any design changes to the seepage system or seepage pit locations he can accomplish those. Mr. Galdi asked Mr. Azzolina if he made a notice to the drainage. Mr. Azzolina stated that that is what Mr. Madaio is alluding to. One of his suggestions is to perhaps split the system so that you have one pit in the upland area and one in the rear yard area just to take it out of the flood hazard area. During a real severe weather event,

theoretically the brook floods to elevation 38.7 for a ten year storm, so the ground below that elevation would be saturated assumably, so he is saying the effect of that seepage pit in that proximity to that flood hazard area may be comprised during the real severe events. To mitigate against that is to either relocate the system entirely, if that is feasible from the design perspective, or perhaps, minimally, split the system so you only have one pit in the rear and one pit in the front yard area. Mr. Madaoi noted that they have no problem during the actual construction plan phase to comply with whatever seepage pit is desired.

Mr. Schuster asked about the 100 year flood. Mr. Azzolina noted that that is by definition the flood hazard area, which is actually the 100 year plus 25% kicker. That is the elevation that is shown in blue, which based on the DEP mapping is at elevation 40.5. The water in the Cresskill Brook, which is actually influenced by the water surface elevation in the Tenakill Brook, rises to elevation 40.5 in what's called the flood hazard design flood storm, the 100 year flow plus 25% kicker to give a margin of safety. This structure, the lowest floor, which is the first floor, is set above that elevation, and the crawl space is below that 40.5. But what will happen, theoretically, is the flood waters will flow through the crawl space portion of the dwelling as Mr. Roselli alluded to. The design includes foundation vents, which are both for air as well as circulation of water. There are twelve of them and they are sized as part of the DEP approval process, to allow no hydrostatic pressure to build up on the foundation causing the foundation to be comprised. This was addressed by the DEP. It is specifically shown on the approved drawing.

Mr. Galdi is asking about the seepage pits and at the time they are being put it, Mr. Azzolina can re-evaluate that and assess whether they should be shallower tanks and wider tanks or whatever, because of the depth not getting into the water table. Mr. Azzolina noted that he was alluding to the foundation vents, which was covered by DEP. The seepage pits were not covered by DEP. Mr. Galdi noted that sometimes you could use, hypothetically, instead of a six foot seepage tank, they could make it three feet but twice as wide to compensate because of the water table. Mr. Azzolina agreed. Mr. Madaio noted that they will design to whatever Mr. Azzolina suggests.

Mr. Madaio noted that the other element on the Borough Engineers memo is the shed that is located on the southern property line in front of the house. That is actually a temporary structure. That structure, when they had hoped to start construction during the winter, is actually just a storage shed for the construction site. That will not be there. To the extent that anyone is worried about an additional or separate accessory structure requiring variances of any kind, that really is just tool storage.

Mr. Madaio stated that the only other concern is a six foot fence along the border. They are not sure if it is theirs or their neighbor's. To the extent that it requires a variance, they will request that here tonight. Mr. Schuster asked about how it showed up on the survey. Mr. Madaio is not sure if it came up on the survey. Mr. Azzolina noted that it is on the survey, but it is not identified as to the offset. It looks like it is right exactly on the line and he didn't have the opportunity to see which side the good side is facing. Mr. Madaio thinks the fence is board-on-board. Mr. Madaio stated that to the extent that a variance is required for that existing fence, which he does not know how long it has been there, if it is theirs and nobody has ever asked for a variance, they might as well clean that up too. It is in moderate condition. Mr. Azzolina just wanted the Board to be aware that it is there and it is a six foot fence and our code permits a maximum height of four feet. Mr. Morgan asked how far the fence comes out to the road. Mr. Azzolina noted that it comes to the stone columns. The limitation for this type of fence is four feet except for the first 25 feet from the rear yard, which can be six feet, but then you have to step down to four feet. Mr. Madaio is suggesting that they clear it up and request that variance. It has been there for who knows how long. The first 25 feet are permitted. The rest is not. When you only have a lot that is 20 feet wide in some areas, the fact that you are a little further clarified from the neighbors is probably a good thing. He also noted that the old house was probably right up against the fence.

Councilwoman Tsigounis asked, being that it is there and existing, if it were to be torn apart during a storm, would they be permitted to reconstruct a six foot fence or would they have to come for a new variance. Mr. Schuster noted that if it is destroyed, they would have to come back for a variance to rebuild it at six feet. Mr. Madaio stated that he believes that if a non-conforming structure of any kind is destroyed, you have to come back for a new approval if you want to rebuild it.

Mr. Madaio stated that those are the only variances they are talking about. The fence is a natural fence. He also noted that there is a very funny cinderblock wall/fence on the other side of the lot that seems to belong to the other house, but it almost looks like an estate type of wall. It is an old cinderblock stone wall that looks like it used to have stucco on it that has kind of fallen off so now it is just an old cinderblock wall. In either case, that is what it is. Mr. Azzolina noted that that wall shows to be on the neighbor's property. It appears to be about six feet tall as well.

Mr. Madaio asked Mr. Roselli if they meet every other part of the site plan ordinance and if they could run underground electric. Mr. Roselli noted that they could run underground utilities. They have existing sewer, electric and water. There is nothing that would trigger any difference with regard to their actual site plan review process.

Mr. Madaio presented a three page set of architectural plans. He noted that the variances listed on the architectural plan were not as complete as the variances listed on the engineering plan. So there is no confusion on that, they submitted a new first page of the architectural plan. He marked the entire architectural set as Exhibit A2. The plans are dated 12/2/11.

Mr. Vaccaro opened the meeting to the public. No public was present. Mr. Galdi made a motion to close the meeting to the public. Mr. Morgan seconded the motion. Motion approved.

Mr. Galdi made a motion to approve, subject to the applicant meeting the criteria of the Borough Engineer's memo and any changes he requires during construction that have to be done. Mr. Schuster also noted that this is a unique site and many of the variances that are required are a result of the fact that this is a peculiarly odd-shaped property. Mr. Galdi added that because of the description of this property, a lot of the variances are essential. Mrs. Schultz seconded the motion. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Vieni and Mrs. Schultz all voted yes. Motion approved.

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Other Business

None.

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

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

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The next four regular Planning Board meetings are scheduled for May 22, June 12, June 26, and July 10, 2012, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary