MINUTES

CRESSKILL PLANNING BOARD

JUNE 9, 2015

Mayor Romeo opened the meeting at 7:36 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. Calder, Mr. Morgan, Mrs. Schultz, and Mr. Moss. Also present were Mr. Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney.

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Mr. Morgan made a motion to approve the minutes of the May 26, 2015, meeting. The motion was seconded by Mrs. Schultz. All present were in favor of the motion. Motion approved.

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Correspondence

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated June 3, 2015, sending Mr. Frank DeCarlo to this Board for approval. He would like to construct a new single-family residence at 98 Heatherhill Road. Application #1465 was received on June 9, 2015. This application is currently under review.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official/Zoning Officer, dated June 3, 2015, sending a representative of Cresskill Liquors to this Board for approval. They are proposing to install an illuminated sign above their new location. No one was present. Will hold until the next meeting.

Memo from Ms. Barbara Nasuto regarding the League of Municipalities Convention being held November 17-19, 2015. Please let Ms. Nasuto know if you will be attending so she can make hotel reservations.

Copy of letter from Toll Brothers, dated June 3, to Ms. Barbara Nasuto, regarding inclusionary housing request for addition to township notice/service list. They are requesting that their office be added to the notice/service list so as to be immediately notified of: (i) any public meeting of the Township Council or Township Planning Board during which the Council or Planning Board intends to consider or take action on any revision to its Fair Share Plan; or (ii) the filing of a declaratory judgment action by the Township pursuant to the New Jersey Supreme Court's March 10, 2014 Opinion and Order. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated June 3, 2015, sending Mr. John Finetto to this Board for approval. He wishes to construct a new single-family residence at 159 Magnolia Avenue. No plans have been received and no one was present.

Letter of Introduction form Mr. Edward M. Rossi, Construction Official, dated May 26, 2015, sending Anna D. Lee, M.D. to this Board for approval. She would like to utilize a portion of her home at 40 Center Street as a professional office. She is an aesthetics/pain doctor. The ordinance states she can utilize 50% of one floor for professional use. As this will be a part-time endeavor, she will be maintaining her regular full-time position. They will want to hang a sign with the name of their business. They were given the regulations for such a sign. They plan on attending a July meeting.

Letter from Avalon Bay Communities, Inc., to the Municipal Clerk, Mayor and Council and Secretary of the Planning Board, dated June 4, 2015. The letter states that AVB is interested in constructing an inclusionary development within this community. They are an interested party in the municipality's compliance with its affordable housing obligations and requests that Cresskill Borough and its Planning Board and Zoning Board, including any attorneys, staff members and consultants of each of the foregoing, include AVB on the service list for any communication with the court regarding any litigation concerning affordable housing issues. File.

Letter from the County of Bergen, Historic Preservation Advisory Board, Bruce A. Barton, A.I.A., Chairman, dated May 29, 2015. This letter states that the Bergen County Historic Preservation Advisory Board and the Bergen County of Chosen Freeholders are pleased to accept applications for the 2015 Bergen County Historic Preservation Trust Fund Grant Program of the Open Space, Recreation, Floodplain Protection, Farmland and Historic Preservation Trust Fund. The applications and supporting documentation are due on or before Thursday, September 3, 2015, by 4:30 PM. Applicants are strongly encouraged to first submit "Intent to Apply" applications to be sure the proposed project meets county requirements by Monday, June 22, 2015 by 4:30 PM.

Letter from Mr. Elliot Urdang, attorney for Ramapo Developers. It includes some of the disputes from neighbors representing the property located at 177 6th Street. The application seems to be missing information. The following is a petition from residents within the area of the proposed dwelling. Attached are signatures from those directly affected. Mayor Romeo looked over the letter and it was given to Mr. Schuster for the Public Hearing.

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Subdivision Committee

Councilwoman Tsigounis reported that we received a new application for 98 Heatherhill Road. Application #1465, 98 Heatherhill Road, Mr. Frank DeCarlo, was received on June 9, 2015, and is currently under review. Mr. Azzolina has received an informal copy but has not had the chance to review it yet. He will have comments for the next meeting.

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Report from the Borough Engineer's Office

Mr. Azzolina stated the only thing he has is his report for tonight's Public Hearing.

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Resolution for Application #1462, 102 Westervelt Place, M3M Builders, LLC, was introduced by Mr. Morgan, seconded by Mr. Moss. On Roll: Mayor Romeo, Councilwoman Tsigounis, Ms. Bauer, Mr. Morgan and Mr. Moss all voted yes. Mr. Ulshoefer was absent. Motion approved.

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Public Hearing – Application #1463M – 177 6th Street

Mr. Schuster stated that the notices were in order. Ms. Jacklyn D'Arminio from the law offices of Elliot W. Urdang, was present representing the applicant. They are here today on the two lot subdivision at 177 6th Street. She has with her the engineer, Mr. Michael Hubschman, who will also be testifying as a planner, and the architect, Ms. Stephanie Pantale, who will talk about the one new structure that is planned to be going up on one new lot. The existing structure will remain on the other lot. It was pointed out to them by the Borough Engineer that there was inconsistencies between the architectural plan and engineering plan. That has been corrected on the architectural plan. The numbers have been updated and are accurate and they have them and they were distributed and she would like them to be marked as an

exhibit. Nothing has changed as far as the notices or variances they are looking for. There was an inconsistency and it was corrected.

In addition to that, it was pointed out in the engineering report that they did not have the owner's consent. The applicant is the contract purchaser. The owner's consent, obviously as being a contract purchaser is implied, they have an e-mail, and obviously if we go forward with this today and it is acceptable to the Board and if the Board were to approve it, she will get an appropriate consent form, appropriate affidavit of ownership and consent that will be an addition to the application as no application can be approved without owner's consent if it is not the owner making the application.

Mr. Schuster stated that he was marking the updated architectural plan as Exhibit A1. The letter from the residents that was read during correspondence is being marked for reference only as Exhibit R1 which is for identification purposes only. Ms. D'Arminio asked if she could look at the letter. Mr. Schuster stated that she should have gotten a copy of that but she didn't. He also stated that it is for identification only and is not official unless the people testify.

Ms. D'Arminio called Mr. Michael Hubschman as her first witness. Mr. Hubschman, Licensed Professional Engineer and Planner, 263 S. Washington Avenue, Bergenfield, was sworn in by Mr. Schuster. He was accepted as an expert. He has appeared before this Board many times and his license is in good standing. Ms. D'Arminio asked Mr. Hubschman if he was familiar with the site and its environs. Mr. Hubschman noted that he was and that he prepared the site plans and reviewed the architectural plans presently before the Board. Ms. D'Arminio asked Mr. Hubschman to describe the existing lot in its entirety.

Mr. Hubschman noted that the lot is on the westerly side of 6th Street. It is a 100 x 100 foot lot, 10,000 square feet. There is an existing dwelling and garage located on the northerly 50 foot of that lot. The plat he is looking at shows the proposed house also and the existing house. Ms. D'Arminio noted that Mr. Hubschman is showing a colorized version of the plan that is currently before the Board. The only difference is the color that was added for presentation purposes. Mr. Schuster marked this colorized site plan as Exhibit A2. The date on the plan is February 9, 2015. There are no revisions.

Ms. D'Arminio asked Mr. Hubschman to explain what he meant when he noted that the site appeared to have been two lots. Mr. Hubschman noted that all of the development is on the right half or the northerly section, a small dwelling, driveway and a detached garage. The left 50 foot of the lot is basically vacant. Besides the single-family residence, the lot is developed with a driveway (colored in gray) and a small garage in the rear.

Mr. Hubschman stated that the neighborhood is all single family dwellings. To the right of the lot is the small church, which is currently a house. He colored the key map on the top. The pink color are the 50 foot lots in the neighborhood and there are quite a few within the neighborhood. Across the street there are two 50s and the corner lot is a 50. The lot adjacent to the "church" on the north is a 50 foot lot. The yellow colored lots are 75 foot lots. Generally the entire block has no conforming lots, except for this one. Ms. D'Arminio asked if any of the lots were recently developed. Mr. Hubschman noted that there were a few. There was the corner subdivision that was sort of an "L" shaped lot, which is a newer home, and across the street there is a fairly newer home. The subdivision that he was referencing were both 50 foot lots and they were within the last five years.

Ms. D'Arminio asked Mr. Hubschman to describe the homes in the neighborhood in terms of size. Mr. Hubschman stated that on the smaller lots there are much smaller homes. They all seem to fit in. They are smaller Colonial type homes. They did a count of the number of lots in the neighborhood and within 200 feet there are 38 homes, or 38 lots. There are five that are 100 x 100, 11 that are 75 x 100, and there are 22 lots that are 50 x 100. The 50 x 100 lots come to 57.9% of the lots. The 75 x 100 lots come to 28.9% of the lots. So there are 86.8% of the lots are non-conforming within 200 feet. Generally, 100% of the lots, with the exception of this lot, are non-conforming on the block.

Ms. D'Arminio asked Mr. Hubschman to describe what is being proposed in this application. Mr. Hubschman noted that they are proposing a very modest sized dwelling. The footprint is 997 square feet. It is two stories with a total FAR of 1,900 square feet. It is a modest sized house. It fits on the lot. They meet most of the requirements. They are about 1% over on the building coverage. It meets the FAR requirement. They have 11 foot side yards, about a 35 foot year yard and a 25 foot front yard. It is a smaller home sized to fit on that 50 foot lot. They are proposing two seepage pits on the lot which stores about 600 cubic feet of water. There is no drainage improvements on the lot presently. Everything drains towards the street.

Ms. D'Arminio asked about the variances that they are requesting. Mr. Hubschman started with the variances that are common to both lots. They are requesting that the lot be subdivided into two 50 x 100 lots so they require variances for lot width and for lot area of 5,000 square feet. In his opinion that would be pretty consistent with what's in that immediate neighborhood. A 100 foot width is required for that zone. The area required for that zone is 10,000 square feet and they are proposing 5,000 square feet. Both lots will be 50 x 100 foot lots.

Ms. D'Arminio asked Mr. Hubschman to identify the proposed lot that will contain the new structure and go through the variances that that structure will require. Mr. Hubschman stated that they are calling that lot 224.01 and the variances are lot area and lot width. And to try to fit the house on the lot, the total sideyard requirement is 35 feet, which is really impossible on a 50 foot wide lot, so they sized it at 11 and 11 and a 28 foot wide house, which is a pretty typical size with a two-car garage on a 50 foot lot. That would keep the 20 feet generally between the houses. That is a good amount of light, air and open space between the houses. The 11 foot side yards is a variance. The 22 foot total is a variance. The 20% building coverage is required and the house is 21.3% so it is just over 1% over the required. It is about 50 square feet more than is required on the footprint. The impervious coverage is 37.8% and they are only permitted 35%. It is slightly over to have the two-car garage. The FAR is met for the smaller lot. On the big lot you can basically build twice as much, so they are half the requirement.

Ms. D'Arminio asked Mr. Hubschman about the lot where the structure is to remain. Mr. Hubschman stated that there is the existing front yard, which they are not changing, that is only 12 feet. The requirement is 25 feet. They are creating the non-conforming side yard of 10 ½ feet, so they will still have 21 feet between the houses, but that is a non-conforming side yard. The building coverage is 26.9% or about 27% because of the garage in the rear. The impervious coverage is in excess on the lot because of the driveway and the garage in the rear. They are proposing to keep the existing house and garage on the existing lot. These variances are going to be caused by the existing structures on a smaller lot because they are proposing to subdivide the lot in half so the coverages obviously go up. The FAR will remain compliant. Including the garage, it is 32.8% for that lot.

Ms. D'Arminio noted that there are two existing variances related to the detached garage that aren't changing. Mr. Hubschman explained that in the side and rear yard five feet is required and it is about 1 ½ feet, and it has been in existence for some time.

Ms. D'Arminio asked Mr. Hubschman if he had a chance to review Mr. Azzolina's report. Mr. Hubschman noted that he quickly reviewed it before the meeting and most of the engineering items are pretty typical and they will be able to deal with those. There is nothing that they can't comply with. It is not a major engineering project, it is just a single family house on a small lot.

Ms. D'Arminio asked the Board if they had any questions before she proceeded. Mr. Morgan said he was concerned about the zoning and how it was deeded. Ms. D'Arminio stated that she was informed that it was on two separate deeds but she has not seen two separate deeds. She can continue to do research and try to get her hands on them. Mayor Romeo stated that we may have it. Ms. D'Arminio noted that from the way it was developed, it appears to have been two separate deeds. There was no reason if it was one deed to have developed only half the lot. The records she had access to only go back to 1993 and anything beyond that would not be on line and she did not have access to them. Mayor Romeo noted that back in the 40s when this was all developed, that's when these were all 50 foot lots.

Ms. D'Arminio asked Mr. Hubschman about the positive criteria and what kind of variance he believes this to be. Mr. Hubschman noted that he believes it is a C2 variance where the proposed deviation from the zoning, although it appears large, does fit almost exactly within the neighborhood. That is a positive criteria because of all the 50 foot lots in the development. They advance three purposes of zoning that he found after reading the statute, the C, E & G. The C is it provides adequate light, air and open space. E – It promotes the establishment of an appropriate population density within the neighborhood because it is a smaller house in a neighborhood which has predominately 86% of undersized. It provides sufficient space in an appropriate location for a variety of residential uses to meet the needs of all New Jersey citizens. What that means is that we can provide a smaller home that's affordable to people who aren't buying homes in Cresskill on 100 x 100 lots and the upper numbers. This is a more affordable type home. Mr. Moss asked what the total square footage of the home was. Mr. Hubschman noted that the FAR is 1900 square feet. The footprint is 997.

Mr. Hubschman noted that the positive criteria is that it is a newer home that will enhance the values in the neighborhood. They are going to be extending the sidewalk down with new curbing. When they did the corner lot they extended the sidewalk down in front of the old church, where there is kind of a ratty looking sidewalk. Ms. D'Arminio asked about the impact on the neighborhood. Mr. Hubschman stated that it shouldn't have any substantial impact on the neighborhood. The house is being developed on basically vacant 50 foot lot. There are 50 foots to the left of them, the old church is 75 feet, and there are four 50 foot lots across the street. The other lots are all 75 feet. The alternative to these two smaller homes would be basically one large home that would be in not keeping with the other smaller homes in the neighborhood. Developing it with the two smaller homes would be very consistent with the block and the older section of Cresskill. Ms. D'Arminio had no further questions of Mr. Hubschman.

Mr. Calder asked if there was any development being done on lot 226. Mr. Hubschman stated that he is not aware of any. The contract purchaser is just for the one lot. Mr. Schuster asked what impact this would have on the area. Mr. Hubschman noted that just adding one brand new house in this neighborhood wouldn't have any impact on the area or on the neighborhood. It is just one house and they are going to redo the sidewalks and curb cuts. Traffic will be minimal. Mr. Calder asked if any consideration was given in the design to not having a building coverage variance. It seems minimal. Mr. Hubschman stated that he could ask the architect that question, because they kept working it down and she would be better able to answer that question. Ms. Stephanie Pantale noted that it is only 67 feet, which is kind of the front porch that is covered and a landing and steps and that is all part of the building coverage. Ms. Bauer asked about seepage pits. Mr. Hubschman noted that they are proposing two seepage pits, one in the driveway and one for the roof leaders. The one in the driveway is for about seven inches of rain so it should be able to hold most of the storms.

Mr. Morgan asked about the indication of a future generator and where would it go. Mr. Hubschman stated that they didn't indicate a future generator. Mr. Azzolina stated that it is his recommendation, based on the garage-under design, that a generator be provided to power a sump pump that should be in the garage area and that is where that comment is coming from. Mr. Hubschman noted that they have done the same house before and they have done the generator. Mr. Azzolina noted that if the Board were to approve this application he would make a recommendation that a generator absolutely be required as part of the application in the event of a power failure so the sump pump would continue functioning. Ms. D'Arminio understands that Mr. Hubschman hasn't had a chance to study that location, but asked, from his experience, where would he be inclined to place the generator. Mr. Hubschman stated that the best place would be where the electric entrance is and he doesn't know exactly where that is right now. He would work with the engineer to make sure that it is adequate.

Mr. Calder asked if Mr. Hubschman had any information about the flow of ground water from lot 226. Mr. Hubschman noted that they haven't done tests yet on it. It is a flat piece of property. Mr. Calder noted that he asked because the impervious coverage on 226 is significant and asked if the 224 lot would pick up runoff. Mr. Hubschman explained that they are proposing swaling and everything pitches towards the street. Ms. D'Arminio asked if there was any drainage on the site now. Mr. Hubschman noted that there is no drainage on the entire lot now. The existing impervious, which is Mr. Calder's concern, is existing. Mr. Hubschman noted that they designed the new lot, with the swaling, so that everything is swaled out

towards the street. They have two seepage pits, which is a lot for that small lot. Elevation-wise, the rear is at elevation 50, the front is elevation 48 and the street is elevation 47, so there is a three foot pitch from the back to the curb. It doesn't necessarily go side to side.

Ms. D'Arminio called her next witness. Ms. Stephanie Pantale, 70K Chestnut Ridge Road, Montvale, NJ, was sworn in by Mr. Schuster. Ms. Pantale is a licensed architect in the State of New Jersey and her license is presently in good standing. She has testified before this Board many times and was accepted as an expert in architecture. Ms. Pantale stated that she is familiar with the site and its environs and prepared the plans currently before the Board. She has not done other plans on 6th Street, but she has done other houses in Cresskill on 50 foot lots and undersized lots. Ms. D'Arminio stated that it is fair to say that she is familiar with this area and the way it has developed. Ms. Pantale agreed.

Ms. Pantale noted that this is basically a two-story home, 9 foot first floor, 8 foot second floor. It has a garage-under with a single door. It has modest basement. Basically you walk in on the first floor and it is 997 square feet. The extra variance for the building coverage comes from the covered front porch area and the steps coming down. Once you go up the steps, you go into a modest foyer, there is a staircase, a living room or family room, powder room, a little desk area or butler pantry, and a kitchen and dining room and you are out the back door. The house is 28 feet across the front. That is really kind of the minimum to build to get a garage and a front door. The garage needs to be 20 feet and that is a modest one. Then there is a front door and you are in. The house is 40'1" deep. They designed it basically for three bedrooms upstairs on the second floor and they have one bedroom downstairs in the basement. They can use it as a bedroom in the basement or they can use it as a study. Basically it is a three bedroom house by typical standards, with the possibility of a fourth downstairs in the basement. It has a modest master bedroom that is 14 x 14 with two walk-in closets and a 5 x 10 foot bathroom. There are two bedrooms towards the back of the house with a common bathroom. There is no deck out the back, just a little landing for a slider with steps down to grade.

Ms. D'Arminio noted that one of the variances they are requesting is for side yard setbacks. She asked what would happen if they narrowed the house further from the 28 foot width. Ms. Pantale stated that the garage would have to stay the garage and she couldn't get the front door facing the front of the street. She would actually have to move it somehow along the side and then she would need a variance anyway for a porch to be in that direction. In keeping with the rest of the neighborhood, front door facing the front, garage facing front, and that was the plan. Also, the 22 feet combined side yards, for the 11 on each side that they have, would be like leaving 44 feet on a 100 foot lot, proportioned. On a 100 foot lot across, they are allowed 35 foot setbacks, which would only be 35% of the lot. They are going to have about 44% that they are leaving on their side yards with the 50 foot frontage. They are trying to give as much side yard setbacks proportionately as they possible can.

Ms. D'Arminio asked, in her opinion, if the architecture she is proposing is similar in style to the homes in the area. Ms. Pantale noted that in the fact that it is a two-story, yes. They are trying to update the look a little bit, a little bit more modern. It is not traditionally a center hall colonial with double hung windows. It has stone and some stucco that made it a little bit more modern. They do have a gable roof so it is not a flat roof or contemporary where roofs only go in one direction. Traditionally, they just updated it a little bit. In terms of size, scale and general aesthetics, it is in keeping with the neighborhood. She doesn't think there are a lot of four bedroom houses in the neighborhood. It is a three bedroom house with a bedroom in the basement. It has a family room or living room, a dining room and a kitchen. Basically it is not even an eat-in kitchen. They are eating in the dining room or they are going to eat at the island. There are no other rooms except for those major three and a powder room and a closet. It is a very modest home.

Ms. D'Arminio asked if she was presented with a 100 x 100 foot lot, this lot as is, what would she or could she perceive being built on the lot. Ms. Pantale stated that if it was all conforming it would be a 3,000 square foot house with a 400 square foot garage, which would be 2,000 square feet. They could have 4-5 bedrooms. It would definitely be double the size. That would not be appropriate in terms of size and scale for this neighborhood because pretty much all the houses are 50 x 100 like Mr. Hubschman had shown and proportionately she is pushed back so she is in keeping with the front yard. The house adjacent basically looks wider and just slightly shallower and it doesn't even have a garage. The garage

is in the back. She believes that is very common on that street in several locations, especially on the 50 foot lots.

Mayor Romeo opened the meeting to the public. Ms. Carol Biondi, 174 7th Street, wished to be heard and was sworn in by Mr. Schuster. Ms. Biondi asked where the garage was going, how far back from the house. Ms. Pantale stated that the garage is under the house. Ms. Biondi asked how tall the house is. Ms. Pantale stated that the house is 28 feet and is conforming. She is allowed 28 feet from the average front yard setbacks and she believes that the other houses are 28 feet. Ms. Biondi said that it is going to block everything that she has. It is going to be right on her property. Her property is directly behind this lot. Ms. Pantale noted that the empty lot is going to have a house. Ms. Biondi also stated that the existing house is an eyesore. It is an older house and a nice size house and now you are going to stick this little thing right in here and it is going to block everything. Ms. Pantale asked Ms. Biondi what it was going to block. Ms. Biondi stated that it was going to block her view where it is nice when she sits in her backyard, she has nice trees and it is nice and it is just going to be an eyesore. Ms. Pantale asked if she knocked down everything and built a 3,000 square foot home, that would be OK. Ms. Biondi said that that would be better because it would conform better than that. Squeezing a house in a lot looks like crap, to tell you the truth. She has gone down blocks where they squeeze houses in and she says she wouldn't want to live on those streets. Ms. Pantale said they are replacing it like all the other homes. In fact, this house is narrower than the house that is there (next door), and they are all on 50 foot lots. Ms. Biondi noted that these were all built when you could do that. They stopped that. You can't build on 50 foot lots now, you don't have enough room. Mr. Hubschman noted that the rear yard is about 35 feet. And the newer home could be 30 feet, so it is further than it could be.

Ms. D'Arminio asked Ms. Pantale to explain what is required in the zone and what they are proposing. Ms. Pantale explained that the required height is 28 feet from the average front corners and they are proposing 27'11 ½". The rear yard setback is 30 feet required and they are proposing 34.88 feet. They are set further back than what is required for the zone.

Mr. In Soek Baek, 169 6th Street wished to be heard and was sworn in by Mr. Schuster. Mr. Baek has lived in Cresskill for over 17 years. He used to live in downtown Manhattan and he moved. One of the major reasons was because his kids wanted to grow up where it was green. When he came from his country, he grew up all his life in the city. He thinks everybody likes green color better than gray color. They need some kind of breathing room. When they wake up they need nice clean air and that makes their life easier and feel a lot better. This is not the city. He thinks Cresskill has its own character. When we start to build up like that, we start to lose a lot of things. That is one of the major reasons he is concerned. As you can see, all his neighbors, they went to the same high school as well. The atmosphere is very important. That is why so many people, the neighbors, don't want another house. His house is next door to the left also on a 50 foot lot. His driveway is on the property line. When the rain comes, the water is always there. That is a major concern.

Ms. D'Arminio wanted Mr. Hubschman to clarify again about the drainage improvements. Mr. Hubschman noted that they are adding seepage pits and grading everything towards the street so there will be no more water going towards the south. Everything will go towards the street. Mr. Baek stated that they are losing a lot of green things. They like the sunshine. When you build the houses right next to each other, when you open up the window, you don't want to see some kind of blocking, they want to see some breathing room. Ms. Pantale noted that Mr. Baek lives on a 50 foot lot. Mr. Baek stated that that doesn't matter. He wants to see more green. He wants to look at his neighbor's lot. It is more beautiful like a garden. That is what he wants to see.

Mr. Michael Corby, 83 Magnolia Avenue, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Corby noted that the attorney mentioned that the deeds had been researched back to 1993. Mayor Romeo and he spoke in the beginning regarding single deed property frontages and this went back to the 40s. His question is, he has been in town for 40 years and the owner of that lot then, to his knowledge, was Duke Whiteman, and he is wondering, when it changed, and let's assume that Duke Whiteman had that single deed, and he doesn't know if it was him or the owners prior to him, but what he is wondering is if it was him or prior owners, does that single deed follow from owner to owner to owner, because the

current owner would have to have had that followed to him or did it transfer to him as a single deed property. Mayor Romeo thinks that what happened is it probably transferred to him as a single deed property, but that is the problem that you run into. We have had that in the past where they have gone to court and because of the State Statute that said they were merging, those were two separate building lots, there is no doubt about it. There is a series of them on 6th Street, there is a series of them on 7th Street, and there is a series of them on 5th Street. He mentioned to him about the Ollie Pratt property. Ollie Pratt was the original owner. Mayor Romeo noted that there was another case that happened where if the owner had pursued it and we didn't give them back the two lots, they would have taken us to court, they would have been able to research the property to show that it was on two 50 foot lots originally and they would have gotten the subdivision. So rather than go through all the court hearings and $15,000-$20,000 later, the six or seven of these that came through, we have granted them back the subdivision. He thinks that this is the last of the 50 foot lots in the whole town. There were about six or seven of them, mostly in the 6th, 7th and 5th Street areas. Mr. Corby asked if it would have carried to the current owners. Mayor Romeo noted that it would have.

Mr. Schuster stated that even if that was not so, and it is his understanding that it is, if you look at the nature of the neighborhood, how many 100 foot lots are there. Virtually every lot there is 50 or 75 feet and that would be their approach and their testimony is that's the nature of the neighborhood so, therefore, 50 lots should be permitted, even if there is not this deed we talk about. In other words, under either scenario, they should be able to develop the parcel. That is the point they are trying to make here, or that is their petition as the applicant.

Mayor Romeo stated that the tell is that he built on one lot, just like the Angels did on 5th Street. He can name about 10 of them. They had two lots and they built on one and left the other one as an investment and never developed it and when the State Statutes came in and said if you have the same name, the lots are merged, the State had no business doing that. That was originally bought as a building lot in the Borough of Cresskill and when Ollie Pratt took them to court, they made them subdivide it so he could give his 50 foot lot to his son which he originally wanted to do when he came out of World War II. This goes back to the original subdivisions, and he is sure that in court they would grant the subdivision again because twice we were in there and twice we lost so this would go back to the original subdivision, probably back in the 40s. He is not an attorney, but having researched this, we have been bit by this once or twice before. He thinks this is the last 50 foot lot in the area. Mayor Romeo believes that Mrs. Gleason's house down the block on 7th Street was the same thing. She had three parcels there and none of it ever merged and they were allowed to subdivide it.

Mr. Baek stated that all the neighbors don't want them to build another house. That is why they are here and why they have all the signatures. Mayor Romeo told him that he understood. He stated that we have had several of these before where with a 100 foot lot, a gentleman came in and he wanted to knock down his house and build two houses on 50 foot lots. That wasn't what the spirit of the ordinance was about. This clearly was a lot built on one half of the property and left the other half vacant. They chose not to build on it all these years, but it still is two 50 foot building lots which are grandfathered in, which we would lose in court. We have researched this over the years and this should be the last 50 foot lot that we know of in town. You can't just come in and build. If you have a 100 foot lot, you can't just come in and split it in half, knock down your house and build two houses on two 50 foot lots. This is different. This is on a separate lot on a separate deed. That is why, if it is going to be approved, that is why we would approve it.

Mr. Baek noted that they have lived like that for a while and it is going to be a shock. Mayor Romeo noted that the house he is concerned with on this street is the church, turned Zen temple, turned private house. He is still not sure what that is. He understands his feeling and he wants him to be happy to live there. He doesn't think this is going to have an impact. Ms. Biondi stated that it is not a church, it is a house with a lot of people. Mayor Romeo explained that if we vote to subdivide this it is because it is on two separate deeds, be he believes there are no more situations like this. Ms. Biondi asked, now that they changed it over the years, the footage that you can have, she doesn't understand how you can approve it when they don't have the right footage. If they had the right footage to put it in there, she wouldn't care. She doesn't want it on top of her. Mayor Romeo noted that they brought the house down

to where it is a livable house, and it has as little impact as possible. Ms. Biondi stated that it is still impact. If you are the neighbor, it's impact. Why do you have variances, why do you have that you have to be 50 feet from the back yard, then you are saying 35 feet is fine. She doesn't understand that. She is very confused by that. They don't have what they are supposed to have on the sides and in the back.

Ms. D'Arminio wanted to clarify that the back is conforming. Ms. Biondi stated that if you don't have all of it, you shouldn't be able to build. Mayor Romeo stated that Ms. Biondi's point is well taken but if he took every house in town, and let's say there are 2,200 dwellings in town, and he took every house that is not conforming, he would have about 600 houses that are conforming and the rest are not conforming. All of Cresskill Gardens is non-conforming. There is only one area, Stonehurst off of Hillside Avenue, is the only conforming lots, and up on the hill, that have a 100 x 100 or one acre lots. The rest in town are mostly too small. There are very few 100 x 100 lots. That's the failing of the zoning but that's the way it is because the zoning had to catch up to the population growth of the town. A lot of zoning was put in in the 50s and 60s after the houses were built. If we had gone with 100 foot lots in Cresskill Gardens, you would have had half the number of house there and they would have never sold. He understands her point, but most of the houses in town are non-conforming.

Mr. Schuster agreed that most of the houses are non-conforming in some ways, some more than others. Ms. Biondi asked if two wrongs make a right. They are here to fight it because they don't want it. Mayor Romeo stated that they are listening to her, but the crux of this is that it used to be a building lot and in court it would still be a building lot and we would end being forced to make it a building lot. It has happened to us twice before. He knows that they don't like it, but he is just stating a fact.

Mr. Robert Moarkech, 165 6th Street, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Moarkech stated that they still fail to mention the impact on the schools. Bryan School is bulging at the seams. What is the town doing about it? With a new house with three kids, how is it being addressed in the grand scheme? Mayor Romeo stated that this is just one house. Mr. Moarkech asked if they are looking at the schools because he goes to the Board of Ed and he wants to know what the town is doing about it. Mayor Romeo said that they are addressing it. Part of the problem is and he thinks that Mr. Corby would understand, being on the Board of Ed, is the population of the schools is cyclical. When he went to school there were 153 graduating. When his daughter graduated there were 83. It goes up and it goes down. There is not control over that. It is the same as if a gentleman came in here and said to him that the school is expanding because we are letting people come into town. Can't we limit the number of children you can have by living in Cresskill. Well, this isn't China so no we can't do that. Let's say there is a senior citizen and they decide to sell and there's no children. Somebody comes in with three kids. How do you control that? You can't. It is a normal cycle. The older people move out to retirement homes or they pass away and younger people come in with children so the population goes up, then it ebbs and it flows. Mr. Moss stated that at almost every board meeting we have, we discuss the education and the buildings and what to do about them. We look at avenues to make it better. Mayor Romeo said that they are looking at different avenues and it is being addressed and they are trying to do something to solve the problem.

Mr. Baek stated that this is a democratic country and if our neighbors don't want the house, and it is not just a few people it is the whole neighborhood, 27 people, how can they build the house. If they want to make some money, get a lottery ticket. Mr. Schuster explained that the State of New Jersey is telling you how many houses you can have. The COAH and all the requirements are telling us you have to have so many types of these units and you have to have so many types of those units and our authority to act in these areas is so much more limited than it was because the State can tell us this is what you have to do. It is not necessarily up to us the way it was say 30 years ago about how these areas get developed. We have had to put developments in this town that nobody wanted but the courts in the State of New Jersey told us you have to build this there and that is just how it is.

Mayor Romeo stated we put the FAR in so you couldn't have these voluminous houses like you have in some of the other towns. We try to limit the side yards so there would be privacy on both sides. There is a limit to what we can do, but he thinks, with our FAR, it seems to be working, because the houses that are put in, once they are put in onto the lot, they seem to have very little impact. In the beginning nobody

likes change, but that is just the way it is. We will vote our conscious tonight, but we also vote thinking ahead of what's going to happen next if it is turned down. If we are taken to court and lose, we will spend a lot of money for something that may or may not happen, but twice in the past we were told by the judge these are separate deeds and you will let them build something on the property. We are big proponents of making our own decisions here rather than have the court do it. For example, go look at the Stonegate project. That was a court ordered project with 64 units in it. Had the town settled and worked something out, you would have a lot less units there. The court told them what they were allowed to build and now we are stuck with that. We are very cognizant of the fact that we would like to make our own decisions here in the town. We welcome all to come down and we listen to you. You may not think we are if we don't vote your way, but there is a plan here that we are trying to work and there is also a natural attrition. You are going to see all the older homes in town will eventually be torn down and rebuilt by builders for younger couples to move into. You may not like that but it is happening. From what he can see, he is entitled to build on that lot.

Mr. Schuster added that all the reasons why the whole Hoke development was done was a court ordered settlement. The fact of the matter is that a lot of this is not really within our control the way some people think it is.

Mr. Baek asked about how they were going to do the landscaping. Mayor Romeo noted that knowing Mr. DeCarlo, the house will be a credit to the neighborhood. You can go look at some of his other properties. He is from town and he guarantees that the house will be done nicely. It will not be an impairment to the neighborhood. Mr. Corby asked about the house on the other side of the church and was wondering if this house is similar in structure to that house. Mr. Hubschman noted that that house is a raised ranch.

Mr. Calder asked about the deed. Ms. D'Arminio mentioned that she hasn't had the opportunity to do anything besides an on-line search. She was informed by the builder and by her planner. She can work with the clerk and try to go back as far as she can. Unfortunately, the on-line deeds stop at 1993. She has no way of tracing back further than that.

Mr. Joseph Scalia, 180 6th Street, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Scalia has been here for many, many years. He chose 6th Street because of the open space. Over the years it has gotten developed. This is the last piece of property that is not developed. He doesn't like it and there is not much he can do about it, but that's progress. There was a comment about a possible generator being put in. He wanted to know about the noise level it was going to generate. He can pretty much tolerate portable generators, but he just wants to know what kind of noise level they are looking at for the people that live close by. Ms. D'Arminio stated that they haven't done research for the size. Mr. Hubschman noted that there is a State noise code of 60 decibels at the property line so the generators have to meet that requirement. Ms. D'Arminio just wanted to clarify for the neighbors that they received the engineer's report today and this was the first they were asked about a generator. They haven't done a study yet about what generator would be appropriate, which is why she was asking Mr. Hubschman for estimates. She doesn't mean to be vague, but they haven't done calculations so they can't give a definite answer. There is a State code that they have to meet. They will work with the Board Engineer to make sure it is appropriate for the site.

Mayor Romeo noted that they researched this at the Borough Hall. The portable generators sound like you have a motorboat in your backyard. The generators that are on a slab that are self-contained, sound like a large air conditioner but that's it. The portable generators are much, much louder.

Ms. Biondi asked if the Board could hold off on their vote while she does a search. She wants to be positive that there were two deeds. Mayor Romeo stated that the Board was going to vote, but if she comes up with something, they will work with her, but he is sure she is going to find out that way back, there were two deeds. He also stated that they are also going to research it. Mr. Corby told the members of the Board that he has sat in their position in another capacity and he doesn't envy them the task that they have today and he thanks them for their time.

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

Ms. D'Arminio understands the neighbors' concerns. Change is scary. Every time she does a subdivision she hears the same thing from neighbors. They don't want to see plants go, they don't want to see new houses, and in the end when Boards deem it appropriate, houses get built. She understands that concern, but it is the job of this Board to look at the situation and see whether or not the subdivision is appropriate. Putting aside the fact that there were two deeds in the past, this is a neighborhood where a 100 foot lot is extremely unusual. Eighty-six percent of the lots in this neighborhood are undersized and 57% of them are 50 x 100, which is what they are proposing. Under the C2 variance, providing an appropriate density for a neighborhood means looking at the neighborhood as a whole and determining what's appropriate. The alternative on this site is a much bigger house on a 100 foot lot if you knock down both houses. It is going to be bigger. These two houses are appropriately sized for this neighborhood. It will help the neighborhood turn over appropriately. Even though there is fear about light and air and we are taking away space, there is still a reasonable amount of space between neighbor to neighbor. The houses are twenty feet apart. The side yards are conforming, not conforming to the zone but to how the neighborhood has developed and how close the houses are. They are conforming in the rear. They are doing their best on only the 1,000 square feet that this house sits on. It is not an overly large size. It is not like they are developing the entirety of the lot. This is an appropriate, modest, modern home that they believe will be a benefit to this neighborhood, that's appropriate for the density of the neighborhood, and they think the Board should grant the subdivision

Mr. Moss asked if the existing house belonged to Ramapo Builders. Ms. D'Arminio stated that it did not.

Mr. Morgan made a motion to approve, with the stipulation that they will work with the Borough Engineer to address the comments in his report. Mrs. Schultz seconded the motion. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Ms. Bauer, Mr. Calder, Mr. Morgan, Mrs. Schultz, and Mr. Moss all voted yes. Motion approved.

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Old Business

None.

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New Business

None.

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Other Business

None.

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Motion was made by Mr. Morgan to adjourn the meeting at 9:09 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 June 23, July 14, July 28, and August 11, 2015, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary