

MINUTES

CRESSKILL PLANNING BOARD

JULY 10, 2012

Mr. Vaccaro opened the meeting at 7:42 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call: Councilwoman Tsigounis, Mr. Vaccaro, Mr. Galdi, Mr. Morgan and Mrs. Schultz. Mayor Romeo arrived at 7:50 PM. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Steven Schuster, Board Attorney.

Mr. Galdi made a motion to approve the minutes of the June 26, 2012, meeting. The motion was seconded by Mrs. Schultz. All present were in favor of the motion. Motion approved.

Correspondence

Voucher from Mr. Steven V. Schuster for services rendered relative to the Cresskill Planning Board for the month of February 2012 in the amount of \$1,183.33. Mr. Galdi made a motion to approve, seconded by Mrs. Schultz. All present were in favor. Motion approved.

Notice from Rutgers Continuing Studies for Current Issues in Planning and Zoning Excel Basics on Friday, August 17, at Rutgers University in New Brunswick. File.

Letter from MAP Engineering to Barbara A. Nasuto dated June 28, 2012, regarding N.J.D.E.P. Flood Hazard Area Verification & Individual Permit for Tenafly Housing, Inc., Special Needs Housing Project, 311 Tenafly Road. File.

Letter from Boswell McClave Engineering, to Barbara A. Nasuto, dated July 9, 2012, regarding N.J.D.E.P. Flood Hazard Area Hardship Exception Legalization of Whitaker Field Garage, Borough of Bergenfield. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated June 13, 2012, sending Mrs. Virginia Quinn to this Board for approval. She would like to construct a carport at 5 Michelle Court. She is asking for a variance. Application #1423 was received on June 29, 2012.

Letter from Vizha and Jan Szumanski to Mrs. Quinn stating the following: "As per our previous discussions and latest review of your architectural plans, I wanted to send you a quick note in support of proposed carport. We think that it will not only add character to our street but also provide you and your family with the protection against the harsh winter eliminates. Please accept this letter as our approval for you to move forward ASAP. If you need anyone from the town to reach out to me please feel free to do so." File for Application #1423.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated June 28, 2012, sending Ms. Cathy Takourian, Studio LC, to this Board for approval. Ms. Takourian is seeking approval to erect new signage at the 15 Broadway, unit 11. Ms. Takourian was present and stated that they are keeping the same sign just changing the lettering. Mr. Schuster explained that the amount of lettering you are allowed is relative to the amount of frontage she has. Ms. Takourian didn't have the information as to how much frontage she has. Her sign is four square feet. Mr. Galdi noted that we could approve it subject to Ms. Takourian bringing in the requested information on the frontage. Mr. Galdi made a motion to approve,

subject to the information being provided, seconded by Mrs. Schultz. All present were in favor. Motion approved.

Subdivision Committee

Councilwoman Tsigounis noted that a new application was received. Application #1423, 5 Michelle Court, Virginia Quinn, was received on June 29, 2012, and is currently under review.

Application #1424, 102 6th Street, Hosu Lee, was received on June 29, 2012 and is currently under review. Mr. Lee's previous application (#1420) for this address has been withdrawn.

Report from the Borough Engineer's Office

Mr. Azzolina noted that Application #1422, Refined Homes, 128 Heather Hill Road, has been reviewed for completeness. They appear to be satisfactory for completeness and can be scheduled for a Public Hearing. Also, Application #1423, 5 Michelle Court, Virginia Quinn, is relatively minor in scope, and he has reviewed the plans. They are complete as far as what is required for that type of application. He recommends that that plan be scheduled for a Public Hearing as well.

Mr. Morgan made a motion to schedule the Public Hearings for Application #1422 and #1423 on July 24, 2012. Mrs. Schultz seconded the motion. All present were in favor. Motion approved. Both applicants were present and informed of the Public Hearing dates.

Mr. Azzolina also received a new application for 102 6th Street (#1424), Mr. Hosu Lee, and that is currently under review. Mr. Lee was present. Mr. Azzolina noted that he just started to review the plans today. His office had conversations with Mr. Kessler today. They received some architectural drawings from the applicant's engineer and they need to confirm that they are one in the same. He understands that there are some revisions to Mr. Kessler's plan forthcoming. Mr. Kessler explained that according to the ordinance, there is no allowance for the pavers or for a reduction for the pavers. They had taken a 75% reduction in the pavers as pervious but that would not be permitted so they will have to reduce some of the sidewalk area to conform to the 30% coverage. Mr. Lee is agreeable to do that. They will eliminate the side walk from Evergreen and the sidewalk to the patio and the sidewalk from the patio to the driveway. They would like to widen the driveway but they would borrow some from the rear patio to do that.

Mr. Azzolina stated that he will have the complete review by the next meeting. Barring any unforeseen surprises, they would be in a position to recommend approval at the next meeting, assuming that no variances are required. Mr. Galdi suggested to Mr. Kessler to reduce it as much as he could to bring it into compliance and then he could give Mr. Azzolina a call to make sure they are in compliance. The lot size is 100 x 100, 10,000 square feet. Mr. Azzolina noted that a stop work order has been issued on the property. Mayor Romeo suggested that Mr. Lee clear the lot out and clean it up so that in two weeks he could get started if he gets approval. The demolition has already been done. Mr. Kessler noted that the existing foundation is being used and they are bumping it out the rear with a small crawl space. Mr. Azzolina suggested leaving the deck on for now, but clean out the rest of the property.

Old Business

None.

New Business

None.

Public Hearing – Application #1414, 158 Truman Drive

Mr. Mathew Capizzi was present representing the applicants, Mr. and Mrs. Alvarez. He presented Mr. Schuster with the public notices and the mailing notices. Mr. Capizzi noted that this was a project that was before the Board many months ago before he got involved. There was a hiatus from that point in time until today. There were some technical issues to resolve and they have since done that and the application has been recently deemed complete. They are proposing to develop the piece as a single family residence and some accessory structures. It is an oversize lot in the R-40 zone. Back in 2005, there were two building lots. It was purchased by his client in 2005 and merged into one larger lot. It is an oversized lot for the zone. They are proposing to construct a single family residence along the northerly side of the lot, a pool and then a garden area along the southerly side. The merger was done by deed. Because of the uniqueness of the lot in the sense that it has frontage on Truman Drive and Pendergast that actually wraps along towards the rear of the property, the lot doesn't have a rear yard or side yard to speak of, which places a large majority of the development in what can be called the front yard.

They were not issued a letter of denial on the application, as a result, they were conservative in notifying for the variances that they needed this evening. It may be the Board's leisure that some of the variances that they notified for aren't necessary, but nonetheless, in order to be conservative, they have published for them and Mr. Riggs will speak to those variances through his testimony. Mr. Capizzi has three witnesses in support of the application, the site engineer, Mr. Bruce Riggs, the architect, Mr. David Hertz, and the landscape architect, Mr. Michael Vergona.

Mr. Capizzi called Mr. Bruce Riggs as his first witness. Mr. Bruce Riggs, 1000 Maple Avenue, Glen Rock, New Jersey, was sworn in by Mr. Schuster. Mr. Riggs is a licensed professional engineer in the State of New Jersey. He has been licensed as a professional engineer since 1982, land surveyor since 1976 and a planner since 1981. He has been qualified before approximately 85 municipalities in northern New Jersey. He has appeared before various courts and accepted as both an expert in professional engineering and land surveying. He is also a certified municipal engineer by the New Jersey Society of Municipal Engineers. Mr. Schuster accepted him as an expert professional engineer and planner.

Mr. Capizzi asked Mr. Riggs if he had an opportunity to visit the site. Mr. Riggs noted that he has visited the site and is familiar with the site and surrounding properties. The plan on the easel is sheet 1 of 5 that has been submitted to the Board. This plan has been colorized and was marked as Exhibit A1. It has a revision date of April 3, 2012. Mr. Riggs noted that the property is known as 158 Truman Drive. The address probably came from the previous home that was situated on the northerly side of the site. It is on the northeast corner of Truman and Pendergast. It is still known as Lots 19 and 20 in Block 90 on the Cresskill tax map, although it has been merged by deed back in 2005. They have shown the lot line through the center. Ninety-five percent of the dwelling is on the Lot 20 section of the parcel. That is where the major construction is taking place. The home is approximately 8,000 square feet with a 1,000 square foot four-car garage attached to it. The entrance is coming from the northerly side on Truman Drive, coming in to a circular drive with additional parking on the driveway.

On the plan, there are dotted lines surrounding the building and a portion coming out to the center of the driveway. It is all part of the roof overhang of the building. All of the roof overhangs from the building are shown in the zoning as being conforming. The front yard requirement on Truman is 50 feet. The dwelling itself is 60 feet, the overhang is permitted to be two feet beyond the setback line, so the roof overhang is actually 48 feet on Truman Drive so it conforms. The rear yard, because of the previous home, would be opposite Truman Drive, being a corner lot, they have a 75 foot minimum requirement. In the rear yard, they have 79 ½ feet to the foundation, 75 feet to the balcony, and 73 feet to the overhang, so again it is compliant. They have a 30 foot side yard requirement. The roof overhang at this location is actually 60 feet from the property line, the building itself is 76 feet, where the 30 feet is required. The main entrance to the home is off the driveway. The swimming pool is in the rear yard on the patio. The property actually slopes from the

northern side down to Pendergast. From that it slopes down to the existing garden area. It is going to remain. They show the solar panels that are going to be on the side of the hill. They have an equipment storage shed, which is called accessory building one. They have accessory building two, which is a root cellar and accessory building three, which is a trellis. Because of the ordinance, they have taken that as being any structure of materials, so that is why they are calling it that. He will leave it up to the Board as to whether the trellis is actually a structure or not. They are trying to carefully cover all the variances or possible variances.

Mr. Capizzi asked Mr. Riggs to point out the setbacks of the accessory structures. Mr. Riggs noted that accessory building one has a setback from Pendergast of 55.4 feet, accessory building two has a setback from Pendergast of 70.9 and accessory building three, which is the trellis, is 50 feet set back from the right-of-way line. They are all in compliance with the front yard setback, however, the question is, because the building itself is at 60 feet, are they compliant or not, even though they are beyond the setback line. The roof overhang is at 48 feet so he will leave it up to the Board to decide whether or not the accessory buildings are set back further than the building or not. There is no real straight line. If you ran a straight line from the building, they would all be behind it. Mr. Capizzi noted that there is a limitation that no accessory structure can be located closer to the street than the principal structure. They have a principal structure that is at 60 feet and various accessory structures that are less than 60 feet. Mr. Riggs noted that it is 60 feet to the foundation and 48 feet to the roof overhang, which is one of the requirements of the zone.

Mayor Romeo asked about the heights of the accessory buildings. Mr. Riggs explained that most of the accessory buildings were buried into the ground. The trellis is about eight feet high. The maximum height of the two other buildings is only about four feet out of the ground. They are inset into the slope that is there. They are actually not going to be seen from anybody in the street. The entire property has a minimum four foot high fence around the entire property. In most areas it will be higher than four feet. The fence around the pool will meet state requirements with a self-closing gate.

Mayor Romeo asked about the middle of the driveway. Mr. Riggs noted that part of the proposal that they have not finalized yet is a cistern that will collect all the roof water. The cistern is in the driveway. All the roofs are sloped in this direction. They will be using it for irrigation on site. It hasn't been sized at this point in time but the intent is to use the stormwater to irrigate the site. The cistern is a buried tank buried below ground and the center of the driveway will be just a grass area. Depending on the size and the quantity of the water and how much storage his client wants to put in, that will determine how many pumps they need. Mr. Galdi noted that based on the size of it you may want to go with a double pump. He also stated that there will be no tie-in into the potable water. Mr. Capizzi noted that there will be no tie-in for use in the residence. It is only for irrigation.

Mayor Romeo asked if they were storing electric on site also. Mr. Capizzi stated that it is just the solar arrays. The solar arrays are part of the coverage. They have them listed as accessory structures. Mr. Riggs noted that they listed them that way and will leave it up to the Board as to whether the solar arrays are actually an accessory structure. They are set at 78.6 feet from the street, so they are set back further than the building.

Mr. Riggs noted that there are two other variances that are listed and these are for the entrances off Pendergast onto the property. There are gates and a wall at these locations. They are six feet in height. They read in the ordinance that anything over four feet has to be back a minimum of 25 feet from the street. Seeing the close proximity to 25 feet, they are approximately 22 feet, they believe they can move them back to eliminate any need for a variance. Although they are listed, they will not be proposed as variances. These are walkways. Vehicle access is only via the driveway.

Mr. Riggs explained that they have a 98,000 square foot lot; they have a 150 foot frontage; they have 267 foot lot depth and are not asking for any variances for lot coverage. The only ones they are talking about, and they are not sure if they need them, are first for the pool. The ordinance states that the pool must be in the rear portion of the lot. They are behind the front of the house. They did some computations in splitting the lot in half. They have a very small corner of the pool that is technically not in the rear half of the lot. There is one small triangle. You could say that it needs a variance. Based on their interpretation and the way they read the ordinance, they are asking for it. He believes Mr. Azzolina agrees with them regarding this variance for the pool. They also noticed for variances for the accessory structures. They also included the

two fence locations, however, they are going to move those fences so they will eliminate them. The solar array also requires a variance.

Mr. Schuster asked how the trellis was attached to the realty. Mr. Riggs noted that there will be a footing. Mr. Capizzi also noted that in Mr. Azzolina's letter there were some questions regarding retaining walls. Mr. Riggs stated that the only walls that are over four feet in height are actually attached to the main building. All the rest are smaller in size than that. Some of the walls are already existing and the rest of them that they are proposing are all less than four feet. By the entrance they have the six foot walls but they are not retaining walls, they are free-standing walls. They are the walls they will be moving back so they are not a variance.

Mr. Capizzi asked Mr. Riggs to touch on some of the traditional drainage system that they will be providing. Mr. Riggs noted that on sheet 2 of 5, dated April 3, 2012, which was marked as Exhibit A2, it shows that there are utility connections on Lot 19 available, which is what they are showing the building being connected to. They have sanitary, gas and water connections. However, if they do find the connections from the house that was demolished directly in front of this, they may use those. There are actually two sets of utilities for this site that they can use. In either case, they put in a recommendation that they all be inspected to make sure they are in proper shape. Mr. Galdi noted that they be properly discontinued if they are not going to be used so they are safe. Mr. Riggs explained that they are showing on the site a cistern in the center of the driveway. They are also showing an overflow into a stormwater retention system. Depending on the time of year and whether it is being used or not, there may be an overflow. The system is going to be designed so that the site has zero increase in runoff according the RSIS standards. Mr. Galdi asked if there was any piping from that system to the rest of the area. Mr. Riggs noted that the landscape architect can talk to what they have done already or what they are going to be doing. Mr. Galdi noted that his concern is that he doesn't want to see, or we can't have a cross connection anywhere there is potable water. If they are bringing water from the cistern to there, he doesn't want a house faucet there. It has to be a complete individual system for whatever they are doing on the cistern system. Mr. Riggs noted that the cistern system will be isolated.

Mr. Riggs stated that there are three seepage pits shown on the northern side of the property directly off the driveway with an overflow. If, in fact, the cistern and the seepage pits overflow, it will actually go out the driveway and down Truman Drive. Mr. Capizzi noted that Mr. Azzolina recommended that they revise the stormwater drainage report to include a summary table that indicates pre-development flow, allowable flows based on RSIS requirements and post-development flows utilizing the seepage pits. Mr. Riggs agreed that they can comply with that.

Mr. Azzolina also made reference to tree removal that is going to take place. Mr. Riggs noted that they are showing on the site that there are four trees that are going to be removed. All of them are in the immediate area of the dwelling. Two are out by Truman Drive that are not in great condition. There are two of them immediately adjacent to the driveway that will have to come out. There are plantings that are going to be supplemented and the landscape architect will speak to that.

Mr. Capizzi called his next witness, Mr. David Hertz. Mr. David Hertz, 57 Market Street, Venice Beach, California, was sworn in by Mr. Schuster. Mr. Hertz is newly licensed in New Jersey. He has been a licensed architect since 1983 in California. He specializes in sustainable green buildings, both commercial and residential. He has testified as an expert witness in the State of California. He has a degree in architecture and also has been elected to the College of Fellows as the youngest member in the 168 year history. He has testified before Boards and courts about five times. Mr. Schuster has accepted him as an expert architect.

Mr. Hertz presented the site plan similar to what Mr. Riggs presented. They have given an indication of their interpretation of what determines the front portion and the rear portion of the lot. It was marked at Exhibit A3 and is entitled Front Portion vs. Rear Portion Diagram. Mr. Hertz explained that he was struck by the beauty of the site and the orientation of the site and the general topography. As was noted, it was formally two sites. There was a house located on the northerly portion and there had been a previous project started on the southerly portion that created a large excavation for an intended basement. The client developed a garden within that excavation. His first impression was to maintain that topography and that garden as a public benefit and amenity to the site and to position the house toward the rear portion of the lot to maximum view

and solar orientation. There were some wonderful views into the distance but also to maintain proper solar orientation. The existing house had a drive and they are largely building within the footprint that was there so they are really minimizing site disturbance, which was one of their goals.

Mr. Capizzi asked about the green energy theme and how it carries over to the home and to the pool and vegetable garden. Mr. Hertz noted that throughout all of their work they really provide a climate responsive via a regional approach to their work using as many materials locally and being responsive to certain solar orientations. The house actually takes its curved form to minimize east and west orientations to maximize southern orientation and minimize windows on the north side. They desire to put the pool on the south side so it is not blocked by the house itself. This actually has an additional benefit of being quite far away from the adjacent neighbor. They are over 160 feet away from the adjacent neighbor where by right they could actually build within the side yard setback of 30 feet away, so they are generously pushing the building away from the only adjacent property owner. The goal really is to put the pool where the view, the sun and the noise would be, which is why they have run into somewhat of an issue because over 75% of the lot is deemed to have a front yard setback, yet the southern portion is where they would desire to put the pool. By their calculation, there is about a 9'9" triangular sliver section of the pool which, technically, if we would all agree that this is the mid portion of the lot, would be in the front yard. We believe in the spirit of the zoning, and with Mr. Azzolina's opinion, that it is in the rear portion of the lot. Mr. Capizzi asked what the setback of that little sliver is to Pendergast and Truman Drive. Mr. Hertz noted that the setback is approximately 80 feet.

Mr. Hertz noted that as we drop in elevation to what they refer to as the "salad bowl," working with the landscape architect, it is the desire to have two structures that are almost all completely subterranean into the grade as a potting shed as well as storage because none exists. To celebrate the entrance, they created a very simple wood pergola, or trellis structure. If one were to agree with the determination of the front yard setback, if these are considered accessory buildings, again we are before you because they would be in the front portion of the lot even if they are not visible from the street.

Mr. Capizzi asked about the functionality of the house and the cistern. Mr. Hertz noted that to be consistent with their idea to try to minimize the impact of the built environment, they are trying to capture stormwater runoff as well as any other water sources such as ground source heat pumps and the water that would be generated from that, snow melt and rainfall, so that they can use it for subsurface irrigation. So, to the concerns, the cistern proposed to be in the motor court would be completely subterranean and have no tie whatsoever to the municipal water supply or any potable water. It is tied only to subsurface irrigation. There is not even any above grade irrigation. Because of the unique topography, it is a wonderful site because of the natural gravity feed, they are not anticipating any pumps or anything being used. It is a completely self-contained subsurface system of which they have done quite a bit of in California.

Mr. Capizzi asked Mr. Hertz to show some elevation drawing of the potting shed and the trellis area so they can see how that will look from the street. Mr. Hertz presented an aerial view of the bowl, which was marked as Exhibit A4. This is a photo montage, three-dimensional rendering that shows the topography that is easier to view than a two-dimensional drawing and you can see not only the solar panels, but the so-called accessory structures that are largely subterranean, in fact over 80% of them are completely bermed. The roof is also green roof, sod roof. None of these are actually visible by any pedestrian or vehicular traffic, and that includes the solar panels. This portion shows the proposed house and pool location as well. This is an aerial view. The landscaping is taken off of Mr. Vergona's (landscape architect) plan and it is generally representative of the species and height proposed. This view is shown as a two year growth of the plantings.

Mr. Hertz submitted another drawing of the site sections, marked as Exhibit A5. Mr. Hertz noted that the accessory buildings are very small buildings. They are shown on the site sections as being approximately eight feet wide and eight feet tall so that all that is seen from in the bowl is basically a door. The sides and the back are completely subterranean. The majority of the portion of the side is also subterranean. They are constructed of masonry with concrete that is covered with soil and plant material so that essentially it is just a wooden door. There are three elevations on the exhibit. One of the site sections shows the house and the height limit that is proposed. By right, one could build a home within the setbacks and height limit within the area of the garden, so by contrast, their requests are quite de minimus considering the building envelope that is allowable. One can see that they have a relatively small home and then the topography drops down into the garden. The bowl actually acts quite conveniently to essentially hide the middle of what's inside, being

the solar panels, from the street. Another site section is the bowl elevation and the two accessory buildings. Mr. Hertz wanted to clarify that the height of the trellis is eight feet to the bottom side, so on the drawings it is submitted as 9'6" in height. The trellis is supported by a concrete foundation and reclaimed timbers as columns and trellis embellishments.

Mr. Capizzi asked Mr. Hertz to go back to the site plan. He asked him about the solar panel arrays and what kind of energy generation they can look at from those. Mr. Hertz stated that they located the solar panels on the southern orientation of the bowl. The existing topography is quite favorable for the solar orientation. They are currently showing two foot by four foot solar arrays and it should be noted that until they really advance the project and determine their exact lighting needs and energy needs, they won't really be able to determine the exact number of panels, but they have been very generous in assuming a 300 kw system with a goal of having a net zero energy home. This is the client's request as well. Each panel is 2' x 4' and they have a network of area of about 500 square feet. Mr. Azzolina had articulated in his letter that they do not need to be calculated as far as the impervious area, but they are far in excess in open space and pervious area than what is permitted. Mr. Schuster asked if they were not going to exceed 500 square feet. Mr. Hertz noted that they would like to work within the confines of this exhibit. Five hundred square feet is what they have. They do have some room if needed within that area, so they respectfully request that if they were even under the prevue of a variance that they not be limited in actually square footage, but in terms of area of the site, until they are actually calculated. Mr. Schuster asked what was going to be the outward number then. Mr. Hertz noted that they could agree that the area shown on the site plan as this exhibit would not be exceeded by the panels. Five hundred square feet is the actual area of the panels, but not necessarily the space in between the panels. The area would be larger. He would say not more than 1,000 square feet.

Mr. Galdi asked Mr. Azzolina if he was satisfied with the drainage of the seepage pits. Mr. Azzolina noted that ultimately he will be. He believes that the design can be modified if necessary. He needs further calculations from the engineer. Mr. Galdi stated that they have three 1,000 gallon seepage pits. That is 3,000 gallons. Do you have an overflow into a basin or to an outside storm drain? Mr. Azzolina noted that as Mr. Riggs indicated during his testimony, the seepage pits, if they become full, will overflow onto the driveway area and then it will enter Truman Drive and flow south to the inlet that is located at the intersection of Truman Drive and Pendergast. It will flow in the gutter line. Currently the plan does not show an overflow line. If that becomes necessary, he is sure that the applicant will agree to do that. As the design is currently presented, it reflects a gutter line flow. Mr. Galdi noted that for the area that we are talking about if you get a real bad torrential rain as we have been getting lately, that might be necessary so you have some provisions for the overflow on that 3,000 gallons. Mr. Azzolina agreed that a lot of it depends on the size of the cistern. They don't have specifics on that. Mr. Galdi noted that if you were close enough to the cistern you could still go there with it because it's all ground clear water and it is only for vegetation purposes so you could go that way with it. Mr. Azzolina noted that that is what they are stating their design is, that all their runoff from the roof top will go to the cistern. If the cistern becomes overloaded, it will then overflow into the seepage pit. Mr. Azzolina noted that the drainage system is still a little bit of a work in progress. Mr. Galdi stated that that is why he is raising the question so we should be thinking about that so that while we are doing that we can have a double runoff. You can have a runoff from the seepage pits to the cistern that accommodates more water and then still an overflow if we have to. Mr. Azzolina stated that if he understands the applicant's design, he didn't want to contaminate the runoff in the cistern with any pollutants that may be on the driveway surface. They would have independent systems. One of the properties is in the Tamcrest subdivision, which basically accounted for 10,000 square feet of impervious surface on the lot to the south, which really has zero impervious surface. It is really all garden and plantings, except for a paved path which is minimal impervious coverage. When you look at what is permitted to flow off of that site in connection with the proposed drainage system, the drainage system here will work. Mr. Galdi just wanted Mr. Azzolina to pay attention to that as we go in, to the porosity of the soil, how much water and what it looks like and have some sort of a back-up so that you do have provisions for that water. Mr. Azzolina noted that they do have the ability to overflow.

Mr. Riggs stated that the State of New Jersey tells them that roof stormwater is considered clean water and driveway stormwater is not so they don't actually want to put anything from the driveway into the cistern. If they have the roof drainage going into the cistern and there is an overflow and it is going into the seepage pits, they have provided a design that shows a zero increase in runoff. They have taken into account the 10,000 square feet of impervious for the area they were entitled to from the Tamcrest section into their criteria. They will modify it to make sure they are satisfied. If need be and they do need it for the driveway, if

there is a connection on site for the driveway, the drain could go underground directly into the storm drain. Mayor Romeo would prefer it not running over the street. Mr. Azzolina agreed. Mr. Riggs noted that since there was already a house on the site, they already had impervious coverage so all they are doing is taken the old impervious coverage and replacing it with new impervious coverage and then they have the other "credit" from the Tamcrest portion. The new additional runoff from the site is not as you would expect. They don't expect the seepage pits to overflow. Mayor Romeo asked if they could pipe the overflow directly into the storm drain. Mr. Riggs believes that it could be done. Mr. Capizzi believes that they can work out the details.

Mr. Capizzi called his next witness, Mr. Michael Vergona. Mr. Michael Vergona, 30 Delford Avenue, Bergenfield, New Jersey, was sworn in by Mr. Schuster. Mr. Vergona is a licensed landscape architect. He went to Rutgers University and graduated with a BS in Landscape Architecture. He has done work in Cresskill and has appeared before this Board and other Boards in Bergen County. He is accepted as an expert in landscape architecture.

Mr. Vergona presented a plan that was the same as what was presented to the Board with the exception that it has been colorized. It is twice the size and does not include the list of the plants. This was marked as Exhibit A6. This is page four of the site plan. Mr. Vergona explained that there is an existing wall that comes around the property and they are extending that wall. On top of the wall they have a series of conifers that are approximately 12-14 feet tall. There are also 8-9 foot conifers and shrub massing that will get to 5-6 all the way up to 8 feet tall. There are also deciduous shrubs. There is a screening of evergreens that wraps along the street. Mayor Romeo asked that at the corner the plantings be back away from the corner so they don't block the line of sight. Mr. Vergona noted that it is all very low plantings at that point. All the screening plantings along the perimeter are softened with lower plantings in front of them on both sides. There are also spaces of lawns within the garden. On the other side of the driveway they are planting the tallest of the trees to give them privacy from the neighbor. Those will all be between 12-14 feet. The plantings along the bowl area will be vegetables in the bowl area, which are seasonal, with fruit bearing shrubs that get fairly tall around the perimeter and on the embankment is going to be planted with a mixture of low grassy wildflowers and things like that. The potting shed and the root cellar have a shrub barrier around them to prevent someone from walking up on the roof.

Mr. Capizzi asked about the visibility of the root cellar and the potting shed. Mr. Vergona noted that with the gate closed, from the pedestrian level, there will be no true view into the garden. The only view of any of these structures would have to take place from above or from within the space. The eight foot portion of the root cellar is the only thing that is exposed because it is buried in the embankment. There is a little triangle of the root cellar that is visible from the side, but that is planted so you won't see that. The only bit of the storage structures that will be visible is the wood door along the front. The trellis you will see poking up above the six foot gate. That will be 9'11" high. Mayor Romeo asked how deep the root cellar would be. Mr. Vergona noted that the root cellar is at grade.

Mr. Schuster asked if they were bringing any bees onto the site. Mr. Vergona stated that they haven't talked about it. Flowers attract bees.

Mr. Azzolina asked Mr. Vergona to talk about the deer fence that is proposed. Mr. Vergona noted that there is an eight foot tall deer fence that goes all the way around the vegetable garden that sits behind a wall. You have a two foot tall wall and then a few feet and then an eight foot tall deer fence which doesn't poke up much above the top of the upper slope. That deer fence is enclosed across the front of the pergola with a gate that would open. There is another gate that opens at the back leading to the stairs going to the house. The deer fence is inside the bottom of the bowl. Mr. Azzolina noted that the location is entirely within the building envelope as defined by the combined parcel. The code says that any wall or fence over six feet in height shall be treated as a building. That interpretation is, if it is a building, it has to comply with the building setbacks, which are the front yard setback, and as long as they are behind the front yard setback line, he believes they are permitted to build this fence. They haven't gotten into the specifics of what the fence will be made out of, but Mr. Vergona noted that it would probably be wood or some type of coated metal. He is envisioning that fence to be a metal fence that is fairly transparent that is as least visible as possible. The main purpose is to not obstruct view but to keep deer out.

With respect to the deer fencing, Mr. Azzolina noted that in his report, on page 7 of 8, "when same is wholly located within the building envelope and as such conforms to the requirements of Code Section 275-47 which mandates that *'Fences or walls with a height in excess of six feet shall conform to the requirements set forth herein for buildings.'*" The requirement in this zone is that it be set back 50 feet from the right-of-way. Here the fence is being treated as a building. Councilwoman Tsigounis asked where the fence sat in relation to the bowl. Mr. Vergona noted that it sits at grade. If you call the entrance grade zero, you step down 12" into the garden (12" lower than the street). Then you step back up two feet to the existing wall. The bottom of the fence is about one to two feet above street level. He pointed it out on Mr. Riggs' site plan to show the grading to show that you will not see the fence as the topography keeps going up, but the bottom of the bowl does not. There is no way from any of the street locations that you will be able to see the fence. If there were no plantings and there were no walls that exist in the front, you would only see the fence if you were looking directly into the garden if the gate was open.

Mr. Vergona presented a color rendering of the gate entrance to the garden and it was marked as Exhibit A7. It shows that you cannot see the deer fence. It shows the trellis above it. The top of the gate is six feet. The top of the trellis is 9'11". The deer fence is eight feet tall. He pointed out where the deer fence would be. The gate is about 16 feet wide. It is that wide because there is an existing wall and an existing gravel path so they are utilizing that. Mr. Vergona noted that it is their intent to privatize this as much as possible with plantings. If you look back at the landscape plan, there are many layers. In addition to the four foot tall stone wall and the six foot walls and gate behind it, they have conifers that will get 30 feet tall, they have flowering trees that will get 20 feet tall, so they have this layering of evergreens, deciduous planting materials that are going to totally buffer out the view into that garden space.

Mr. Vaccaro opened the meeting to the public. Mr. Richard Vincenze, 82 Pershing Place, Cresskill, wished to be heard. Mr. Vincenze noted that he goes upstate and sees deer fences all around. He wanted to know what was going to support the deer fence. Mr. Vergona stated that this isn't going to be a traditional orchard fence. It is going to be something a little bit more decorative. They are exploring the style of fence. It will be something like what is used across the street at the parent's tennis court. It has a metal 3 x 3 post, which is the structure, painted a color that blends, an earthy tone color, and a series of wires, so a wire cage, that ranges from spacing that is 1" to 2" vertical spacing and as much as 4-8" horizontal spacing. The idea is for it to be as transparent as possible. Mr. Vincenze asked how far apart the posts were going to be. Mr. Vergona noted that the posts were generally 6-8 feet apart. Mr. Vincenze noted that there is a fence there now. Mr. Vergona agreed that there was.

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

Mr. Schuster asked who actually owned the property. Mr. Capizzi stated that he supplied the deed and Tony and Abigail Alvarez own the property. The applicants are Victor and Gia Alvarez as the contract purchasers.

Mr. Capizzi summarized his potential concerns as far as variance issues as follows: a small portion of the pool because it potentially may not be located in the rear half of the lot, the two accessories structures because they are potentially located in the front yard even though they comply with the front yard setback requirement for the zone, the trellis because it is located in the front half of the lot even though it complies with the front yard setback requirement, the solar arrays and the six foot wing portions of the two walls. He is not talking about each item individually, he thinks it is beneficial to look at the project in total. He thinks individually you can provide a basis as to why the variances should be granted, but on a zoning application such as this, there is case law that says you look at the project as a whole. Granting individual variances, what do you gain collectively, and he thinks you gain a lot from this project. Before there were two aspects that generate the need for the variances, the fact that a significant portion of the property is subject to front yards, therefore, making it practically impossible to develop the piece without having something within the front yard. Obviously, anything is possible. When you talk about variance applications you look at practical difficulties and what can reasonably be done to develop this piece. Moreover, the overlying concern covered by Mr. Hertz is you are looking for a sustainable environment here. There are several facets that have been brought to the table tonight to really support such a legitimate expectation of the property owner. You have a cistern that is going to capture the roof water runoff. They have essentially the property oriented totally to take advantage of the southerly elevation. You start from a high point and work your way down to a low point on the south side, with each structure being higher than the next so you don't obstruct the sun's rays.

You start with the vegetable garden below, work your way up to the solar array, then the pool, then the home, and each one is able to take advantage of the solar energy that is produced from that elevation standpoint.

In addition, quite clearly the property could be subject to more intensive development. They only have one residential structure here. They are well under what is permitted for impervious coverage. They are well below what is allowed for building coverage. All the setback requirements for the structure and even the accessory structures comply or over comply, it is just a matter of are they located in the proper yard. To try to offset any negatives that may flow from the failure to comply with the ordinance requirements, they showed the Board quite detailed landscape plans, which will provide a year round evergreen landscaping, not only to the properties across the street on Pendergast, but also the northerly neighbor on Truman. Not only will he benefit from the landscaping but also from a 90-120 foot buffer from his property line to the dwelling itself. Mr. Capizzi thinks this is a public benefit to the neighborhood and he senses they are creating a park like condition, which is generally something that should be encouraged.

Mr. Galdi made a motion to approve, subject to the questions that were raised on drainage, no cross connections and that they work with our engineer on it. Mr. Morgan seconded the motion. Mr. Morgan asked Mr. Azzolina if he was OK with it. Mr. Azzolina stated that subject to the applicant addressing his comments contained in his report dated July 10, 2012, he is OK with the application. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Vaccaro, Mr. Galdi, Mr. Morgan and Mrs. Schultz all voted yes. Motion approved.

Other Business

None.

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

Motion was made by Mr. Galdi to adjourn the meeting at 9:31 PM, seconded by Mr. Morgan. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for July 24, August 14, August 28, and September 11, 2012, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary