

MINUTES

CRESSKILL PLANNING BOARD

SEPTEMBER 10, 2013

Mr. Vaccaro opened the meeting at 7:37 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

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

Mr. Galdi made a motion to approve the minutes of the August 27, 2013, meeting. The motion was seconded by Mr. Morgan. All present were in favor of the motion. Motion approved.

Correspondence

Resolution for Zoning Change for One County Road was introduced by Mr. Galdi and seconded by Mr. Morgan. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Calder and Mrs. Schultz all voted yes. Motion approved. The original resolution shall become a permanent part of these minutes.

Memo from the Borough of Tenafly regarding Ordinance No. 13-20 – An Ordinance to amend and supplement Chapter 35 of the revised general ordinances of the Borough of Tenafly entitled “Land Development Regulations” and more particularly: amending Section 35-801 “Zone Districts”; Schedule A – “Schedule of Permitted Uses”; and Schedule C – Off Street Parking Requirements Schedule; and Ordinance No. 13-21 – an ordinance amending Chapter 35 of the revised general ordinances of the Borough of Tenafly, entitled “Land Development Regulations” and more particularly: Amending Chapter 35-201 entitled “Terms Defined”; amending Chapter 35-509 entitled “Publication of Decision”; and amending Chapter 35-604 entitled “Technical Review Escrow Deposits.” These ordinances were introduced a regular meeting of the Mayor and Council on Tuesday, September 3, 2013 and a public hearing will be held on October 22, 2013 at 8:00 PM in the Council Chambers. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction/Zoning Official, dated September 6, 2013, sending Dr. Ringler to this Board for approval. He would like to open his Oral and Maxillofacial Surgery practice at 300 Knickerbocker Road, Suite 2000. His care consists of patients with wisdom teeth problems, facial pain, misaligned jaws, patients with oral cancer, tumors and cysts. He treats accident victims suffering from facial injuries, places dental implants and performs facial cosmetic surgery. There will be no structural changes within the office. Mr. Galdi made a motion to approve, seconded by Mrs. Schultz. All present were in favor. Motion approved. Letter sent to Dr. Ringler stating the Board’s approval.

Letter of Introduction from Mr. Edward M. Rossi, Construction/Zoning Official, dated September 6, 2013, sending Mr. Eric Schweitzer to this Board for approval. He would like to locate his business at 300 Knickerbocker Road, Suite 3300. The company holds the lease for Palisades Sales and Marketing Inc. PSMI provides private label branding to vendors that work with supermarkets. Mr. Schweitzer was present and noted that he has 560 square feet and has two people working there. Mr. Galdi made a

motion to approve, seconded by Mr. Schultz. All present were in favor. Motion approved. Letter sent to Mr. Schweitzer stating the Board's approval.

Subdivision Committee

Councilwoman Tsigounis had nothing to report.

Report from the Borough Engineer's Office

Mr. Azzolina noted that he followed up on the plans for Application #1435, 182 Madison Avenue, Jane Lee. That lot was created pursuant to the Tonuzi subdivision from 2006. As part of his review he pulled out the file for the subdivision. The County offered conditional approval of the subdivision. Some of the conditions don't appear to have been satisfied relative to the County. The County approval originally required new curbing along the entire frontage, new sidewalk along the entire frontage and frontage he interprets to mean both the 75 foot wide lot as well as the frontage along where the existing house is. Mr. Azzolina spoke to the applicant and asked them if they were assuming those obligations as part of their contract, but basically they had no knowledge of that requirement. He is in the process of trying to resolve it with the County Planning Department that established those conditions. He spoke with the planner today and it is still in progress.

Mr. Galdi asked about the drainage. Mr. Azzolina stated that he hasn't even gotten that far because the other issue was that typically the County requires a turnaround area on their plans, which the original subdivision plans showed a turnaround area that this plan does not currently reflect. Mayor Romeo asked how they were going to accomplish that with a garage underneath. Mr. Azzolina noted that it was not going to be an easy thing and would be a costly construction.

Mr. Azzolina noted that they are showing a French drain at the garage straight into a seepage pit with an overflow into the catch basin. Mr. Galdi asked if the grading would permit that. Mr. Azzolina stated that if the Kestner plan proves out right, yes, but one of the other questions he had is that they are showing a connection to an inlet that may or may not exist so they may have to construct an inlet, so that would be another cost element that these people need to be aware of.

Mr. Galdi asked about the two retaining walls and if Mr. Azzolina was addressing the drainage on the opposite side of the walls for hydraulic pressure. Mr. Azzolina stated that he certainly was. Mayor Romeo noted that all of Madison Avenue from the circle to probably Jefferson Avenue needs all curb reworking. If they have to put the curb from the radius on 8th Street down to the end of that property, how is that going to affect everything else and when they do the road over again. What is going to happen? They have asked the County several times and they are not putting curbs in. Mr. Azzolina agreed and noted that the County position is that curbing is the municipality's responsibility, so when and if that gets done, the Borough will be doing it. This would just be one less piece to do.

Mr. Galdi noted that attention has to be given to that curbing because you can't just have a low spot from the road going down. That curb has to have an apron with a rain gutter. Mr. Azzolina noted that the curb is on a pretty good grade. Mr. Galdi noted that is why you have to address what is coming down the road. Mr. Azzolina stated that they will be elevated with respect to the roadway. He stated that the elevation of the curbing will be established at an elevation that is consistent with any roadway surface. They will have full height and will most likely be higher than any other curbing up and down the street. The County also imposes their standard of what the curbing is, which is an 8" wide curb, as opposed to a 6" wide curb that we typically use on a municipal road. On a County road you have to use a County standard. That is the same thing with the pavement. It has to be 16" thick, whereas you can get away with 10" on a local road.

Mayor Romeo feels that before any approvals are made on this house, these people should be made aware of all these potential costs. Mr. Azzolina agreed.

Application #1434, 90 Roosevelt Street, Vadav & Maayan Gottesman. Mr. Azzolina received revised drawings. He has a few comments on that drawing. He has a memo dated September 10, 2013, which he will provide to the applicant and hopefully they resolve the issues between this meeting and the next and then it can get signed at the next meeting.

Public Hearing – Application #1436M – 34 Merrifield Way

Mr. Vaccaro announced that this is a Public Hearing for Application #1436M, 34 Merrifield Way, Mr. Avi Lavon. Mayor Romeo and Councilwoman Tsigounis recused themselves from this Public Hearing.

Mr. Schuster confirmed that Mayor Romeo and Councilwoman Tsigounis recused themselves from this application and that we have a quorum for this hearing.

Mr. Schuster noted that he received the affidavit of publication and received the mailing receipts. What he received in lieu of the mailing receipts is a receipt of the proof of mailing with tracking numbers. That correlates with the list of mailing that the applicant has. Mr. Mark Maryanski, the attorney for the applicant marked the list of mailing as Exhibit A1 and the affidavit of mailing as Exhibit A2 and presented them to Mr. Schuster.

Mr. Avi Lavon, 414 Hackensack Avenue, Hackensack, New Jersey, was sworn in by Mr. Shuster. Mr. Maryanski asked Mr. Lavon how he got the list of mailing. Mr. Lavon noted that he used the on-line service of USPS and this is the list of what was sent out. He printed it out from USPS. Mr. Schuster noted that he previously provided him a listing of mailings that they were actually tendered for posting on 8/29/2013, which is more than 10 days. On this they have the addressee listed by tracking number, which is the certified receipt number. Those numbers correlate with the numbers that are on the list that Mr. Lavon printed out. The affidavit of service was signed by Mr. Lavon and it states that he sent certified mail notices to all the property owners on this list on August 30. Mr. Schuster noted that on the notice he had it says that the mailing was tendered on August 29, 2013. Mr. Lavon noted that August 29 is the date he uploaded it to the USPS website but it was processed on August 30. Mr. Maryanski revised the date on the affidavit of service to August 29 and initialed it.

Mr. Maryanski noted that there were a couple of other issues that were raised in the engineer's report that he received regarding the application which he would like to address. The owner consent, with respect to this application, is his client. Originally it was him individually and then he changed it to his LLC. He is the sole member of the LLC. He has the contract which he drafted which is contingent upon him obtaining any and all approvals from the Board and from the Township to subdivide this property into two lots for purposes of constructing two single-family dwellings. That is in the contract itself as a contingency. This was marked as Exhibit A3. The copy of the fully executed contract is a very poor copy downloaded from an e-mail so he also presented a clearer copy that is only signed by the sellers. Paragraph 33 in the contract has the contingency. Mr. Schuster noted that the contract was signed on August 2, 2013. Mr. Maryanski also wanted to address that the owner of the property, which is the seller, has consented to this since it is part of the contract. Mr. Schuster noted that you can bring it in the name of the owner, the contract purchaser or both. He stated that one or both of those people are here today to pursue the application.

Mr. Maryanski stated that the next thing is the classification of this subdivision as a major or minor subdivision which is addressed in the engineer's report. By statute under Municipal Land Use Law, this would be a minor subdivision, however, our ordinance states that if there is any variance involved in connection with the subdivision, it is classified as a major subdivision. What they are asking is for the Board to waive the requirements of the major subdivision since, but for the fact that they are seeking variances on the lot frontage and the proposed lot area, this would be a minor subdivision. It is one lot

into two as proposed, no new streets are proposed and there is no extension of any off track improvements. Therefore, they are asking for a waiver. Mr. Schuster noted that they will defer to the Borough Engineer for that.

Mr. Azzolina believes that Mr. Maryanski correctly stated what is reported in his report to the Board dated September 10, 2013. We have had a number of these over the years. Our code is more restrictive than the Municipal Land Use Law, whereby if you are seeking a variance, it is theoretically characterized as a major subdivision that would result in more detailed plans being required but typically not all germane to a minor subdivision where only two lots are being created without any new infrastructure. He has no objection to waive it if that's the Board's pleasure. Mr. Schuster noted that we are not going to make them do the formal requirements of a major subdivision. They are not going to have to file a plat. We are going to accept a subdivision deed and the technical requirements will be set forth as required by a minor subdivision. We are going to waive the formal requirements of a major and treat it as a minor subdivision. Mrs. Schultz made a motion to approve, seconded by Mr. Vieni. All present were in favor. Motion approved.

Mr. Maryanski wanted to clarify that the only variances that he is seeking with respect to the subdivision are with respect to the lot size and lot area on the proposed lots and the frontage. The report also mentions a side yard variance, but any other variances that they may seek would be on a further application when they go for the development in connection with the site plan either to this Board or to the Zoning Board of Adjustment, depending on what the variances might be. Mr. Schuster stated that as part of this revised application, there is no request for any variances for a structure. We are just going to deal with the specific variances that pertain to the lot only.

Mr. Christopher Lantelme, 101 West Street, Hillsdale, NJ, was sworn in by Mr. Schuster. He is testifying as an engineer and surveyor. He is licensed and has testified before this Board before. His license is in good standing and he was accepted as a professional engineer and surveyor for purposes of this application today. Mr. Lantelme noted that the property, known as 34 Merrifield Way, Tax Lots 17, 18 and 19, Block 6, is presently used as a single family dwelling. There is a dwelling, garage and a swimming pool, shed and deck on the property. What they are proposing is to make two lots out of it. The lot slopes down in the back. If you took the extreme elevation at the street and went to the lowest elevation in the back, it is about a 14 foot drop. In general, he agrees with the engineer's report that it is about an 8% slope. Generally speaking, that is what it is. It is an oversized lot. It is in an R-10 Zone and the requirement is 10,000 square feet and this is 18,484 square feet. It is not that far off twice the requirement, but it is short and a very large lot for this area and for this zone.

The two variances they are seeking are area and frontage. They did have a choice when they drew this out to try to make the frontage equal or the area equal. It is a little tough to do both so they decided it would be best that the lots were as close as they could be in area. One lot is proposed at 9,235 square feet and the other one is 9,249 square feet as opposed to the 10,000 square feet required. As far as the frontage, the required frontage is 100 feet. One lot they are requesting an 86.8 foot frontage and the second lot is a 73 foot frontage. The plans show typical dwellings. These plans were marked as Exhibit A4. The plans were dated August 23, 2013. They have not fully developed the site plans yet, they are just showing a typical size house.

Mr. Lantelme referred back to the engineer's report in Appendix A and noted that there are a lot of technical things requested. All the things requested will definitely be put on the next revision and they are fairly simple. Mr. Schuster noted that today we are just dealing with the subdivision of the lots. Mr. Maryanski stated that the comment referring to Storm Water Management would be dealt with when they submit the site plan for the proposed development. All the improvements currently on the property will be removed. There is a fence encroaching and it will also be removed.

Mr. Lantelme stated that it is an oversized lot and almost twice the size that is required. Mr. Maryanski asked Mr. Lantelme, in his opinion, if the proposed subdivision and the dividing it into 9,200 square feet each would be a more efficient use of this land. Mr. Lantelme noted that in his opinion it would be a more efficient use. It just about makes it area-wise anyway and you would be using it for two dwellings instead

of one. Mr. Maryanski asked if he saw any detriment if the variances were granted for the area or the zoning scheme. Mr. Lantelme doesn't see any detriment.

Mr. Schuster asked Mr. Lantelme if he looked at any other parcels in the area. Mr. Lantelme noted that he has seen other properties in the area.

Mr. Vaccaro opened the meeting to the public. Mr. Tom McMullen, 24 Merrifield Way, Cresskill, was sworn in by Mr. Schuster. He lives next door to the property. Mr. McMullen asked, assuming they approve the subdivision and the variances, if when the plans come up here, is there any way you can abandon the subdivision. Mr. Schuster explained that if it is approved, there will be two lots. The applicant has the right to come in and develop them in a reasonable way. Presumably he will want to come in and build two houses there. Whether or not he can do that without variances we don't know. We cannot give an FAR variance. He would have to go to the Zoning Board of Adjustment. If he wants to come in for a site plan approval of the building with a side yard variance or a setback variance he can apply for that. Once the approval is given, he has a right to build a reasonable building to develop the parcels. Mr. McMullen understands but he is concerned because this is a lot that didn't necessarily have to be subdivided and you could have put a single structure and it would have been a lesser economic value and he understands that, but with a subdivision, are you automatically concluding that as a possibility. Mr. Schuster noted that as a practical matter, they are looking to put two houses there. Would it be possible for him to change his mind and put one house there? It is possible, but it is rather unusual. Mr. McMullen noted that he is directly affected by this because he is the house to the south and he has a prior violation in the sense that his side yard is 11 feet as opposed to 15 feet.

Mr. Schuster noted that these are going to be undersized lots if they are going to be permitted. There may be a requirement that there be an adjustment either in the aggregate side yard or in the individual side yard, depending on the circumstances.

Mr. Anthony Greco, 201 Brookside Avenue, Cresskill, was sworn in by Mr. Schuster. Mr. Greco wanted to know if something like this has been approved in the past. Mr. Schuster noted that there have been subdivisions where lots have been subdivided out that were both non-conforming from the standpoint of lot area and frontage. One of the reasons for this is because, depending on how far back historically you want to go, there was a time when the 50 foot lots were permitted, and then the town upgraded the zoning, so basically everything now has to be a minimum of 100, but there are a lot of pre-existing houses that are on undersized lots both as to area and frontage. If you go further back in time, when you were originally buying most of the lots here, you used to buy them in 20s, so some people bought five 20 foot lots and some people bought three and some bought four so there was a diversity even back then as to the actual lot size and area that you had. The short answer is that there has been subdivisions similar to this granted in the town in the past. Mr. Greco asked if they were strictly due to variations in historic lot sizes as opposed to something like this. Mr. Schuster noted that there are statutory criteria that you have to establish and the proofs have to be there to justify the subdivision. He doesn't recall exactly every reason that was given for the subdivision of every lot. Mr. Greco just wanted to understand the general philosophy. Mr. Schuster noted that there are 50 x 100 lots in town and there may even be a couple that are under that. From that standpoint, as far as lot area, these are over 90% of the minimum requirement in the zone and the frontage is anywhere from 73% to 89% of the requirement. They are not exactly satisfactory to the requirements but they are not that far off in a general sense.

Mr. Galdi made a motion to close the public portion of the meeting. The motion was seconded by Mr. Vieni. All present were in favor.

Mr. Galdi asked the Borough Engineer if he was satisfied with the answers from Mr. Lantelme. Mr. Azzolina noted that Mr. Lantelme previously stated that he received his report and it has an appendix attached to it with 23 items that need to be added to this plan, short of the drainage report that he required that is for the development of the lots when that comes, but all the other things that are noted in the checklist pertain to this subdivision plat. The information is required per our ordinance for a sketch plat which is another term for a minor subdivision. Once those items are addressed, he can recommend that the plans be signed to formalize the subdivision if the Board were to vote in favor of the subdivision.

Mr. Galdi asked Mr. Lantelme if he understood Mr. Azzolina's requests and if he had any problems with them. Mr. Lantelme noted that he understood and did not have any problems with them.

Mr. Galdi made a motion to approve subject to him meeting the conditions that the engineer set forth in his report. Mrs. Schultz seconded the motion. On Roll Call: Mr. Vaccaro, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Vieni, Mr. Calder, and Mrs. Schultz all voted yes. Motion approved.

Old Business

None.

New Business

None.

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 8:24 PM, seconded by Mr. Morgan. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for September 24, October 8, and October 22, and November 12, 2013, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary