

MINUTES

CRESSKILL PLANNING BOARD

AUGUST 11, 2009

Mr. Vaccaro called the meeting to order at 7:35 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call: Mayor Romeo, Mr. Vaccaro, Councilman Brennan, Ms. Bauer, Mr. Galdi, Mr. Morgan, Mr. Mozur, Ms. Tsigounis, Mr. Vieni, Mr. Laurita and Mrs. Schultz. Also present was Mr. Paul Azzolina, Borough Engineer and Mr. Steven Schuster, Attorney.

Mr. Galdi made a motion to approve the minutes of the July 14, 2009, meeting. The motion was seconded by Mr. Morgan. All present were in favor of the motion. Motion approved.

Correspondence

Letter from the County of Bergen, Department of Planning and Economic Development reminding municipalities that Site Plan Approval of Development Applications by the County of Bergen, where required, is needed prior to issuance of Building Permits and/or Certificates of Occupancy by municipalities. File.

Letter of Introduction from Mr. Edward M. Rossi, Construction Official, dated August 11, 2009, sending Mr. Bob Koven, representing Welsh Farms, to this Board for approval. He would like to operate a charitable used clothing business at 35 Madison Avenue, by placing a collection box for American Eagle Used Clothing Co. there. Mr. Koven is from UCAF, Universal Charity Aid fund. Mr. Koven was not present. This box is already in place. Mr. Vaccaro noted that this is a charitable organization but what he understands is that somebody gets 60% and somebody gets 40%. It's not like the Salvation Army or one of those. If that is the case, it becomes a second retail operation at that location. Mr. Schuster noted that we need more information. Mr. Laurita asked if it was charitable. Mr. Vaccaro noted that not the entire amount is charitable. Mayor Romeo noted that you have several around town. There is one over by the food bank for the ASPCA and that is all charitable. They have them over by the DPW and that is AMVET, which is charitable. If this isn't charitable, he questions whether it should be there. He suggested that the Borough Attorney check into it to see if it is a charitable organization. If it is, we can revisit it. A copy of the request was given to Mr. Salvatore for him to check into it. Mr. Vaccaro also noted that the location of the box should be looked into as far as if it is too close to the building in case of a fire and things like that. Memo sent to Mr. Rossi stating that we have not given our approval for this yet as we are having the Borough Attorney look into it.

Letter of Introduction from Mr. Edward M. Rossi, Construction/Zoning Official, dated August 4, 2009, sending Mr. Matthew Tsavides to this Board for approval. He and his partners are the new tenants of 172 Piermont Road and they wish to open their new business "Spasso Italian Restaurant" at this location. They have been in business for over 15 years in North Brunswick. They would also like permission to put the new restaurant name "Spasso" on the existing sign boxes. Mr. Tsavides was present. This is the old Ciao Bello location. Mr. Tsavides noted that this is an Italian restaurant. There are no renovations required. They are just changing where tables are. There will be the same number of seats. He passed around pictures of the proposed signs. They are using the same exact signs, just replacing the name.

They would like to open the second weekend in September. Mr. Galdi made a motion to approve, seconded by Mr. Morgan. All present were in favor. Motion approved. Letter to Mr. Tsavidis stating the Board's approval, with copies to Mr. Rossi and Ms. Barbara Nasuto.

Application for Soil Erosion and Sediment Control Plan Certification for the Devonshire Road and Kenilworth Drive Road Improvement Program. Copy to Mr. Schuster. File.

Letter from David M. Watkins, dated July 14, 2009, regarding the Rio Vista LLC Application #1380M, confirming the public hearing date of August 11, 2009. File.

Subdivision Committee

Ms. Tsigounis noted that revised drawings were received for Application #1380M, which was received on August 3, 2009, and Application #1382, 88 Eisenhower Drive, John Paul DiStaulo, which was received on August 10, 2009. Both were handed out to the Board members. Application #1380M is on for a Public Hearing tonight and Application #1382 is currently under review.

Report from the Borough Engineer's Office

Mr. Azzolina noted that on Application #1382, 88 Eisenhower Drive, John Paul DiStaulo, the DEP has reversed their decision regarding the requirement for a flood hazard area permit. They determined that it is not required. The applicant is now able to move forward without that permit. They have revised their drawings. It is a smaller house. They are currently reviewing that plan and he will look to have that review finalized for the next meeting.

Mr. Azzolina noted that Application #1384, Ron Katiralefar, 104 Huyler Landing Road, is currently under review. They have requested architectural drawings from the applicant's engineer and they are still awaiting those plans. The same is true for Applications #1386M, 1387 and 1388, 37 & 41 Allen Street, 37 Allen Street LLC/Alfonso & Sandra Diaspara. They are currently under review, awaiting architectural plans. Application #1385, Roosevelt Street, Erik and Kim TenCate, was approved two meetings ago, subject to his subsequent review of revised plans. He did receive them and they can be signed. He is satisfied with the drainage and tree removal was discussed. Retaining wall calculations were provided. They are going to review the soil conditions once they start construction. He is satisfied that the plans have addressed all his comments and he recommends that the Board formally approve the plans. Mr. Galdi made a motion to approve, seconded by Mr. Morgan. All present were in favor. Motion approved. Two copies of the plan were signed, with approval memo. One copy to the Building Department, one copy to the file.

Old Business

None.

New Business

None.

Public Hearing – Application #1380M, 180, 188 & 198 Truman Drive

Mayor Romeo, Mr. Galdi and Mrs. Schultz recused themselves from this portion of the meeting. Mr. Vaccaro stated that we have a Public Hearing for Application #1380M, 180, 188 and 198 Truman Drive, Rio Vista LLC.

Mr. David Watkins was present representing the applicant, Rio Vista LLC. He has offices in Closter. The property is Block 90, Lots 23, 24 and 25 in Cresskill. The purpose of the application is twofold. One is to do a reverse subdivision and take the three lots in Cresskill, which total three acres, merge that into one lot, subdivide it off from the property in Alpine and getting a soil moving permit to construct a single-family residential structure on the lot. The fact of the matter is, and he has reviewed Mr. Azzolina's letter, there are no variances attendant to this applicant. The applicant needs no relief from this municipality other than formality of the merging of the three lots for the reverse subdivision. He has the architect and engineer here to testify tonight. He is first going to bring up McNally Engineering to testify to the subdivision itself and the plan. As you go through the plan, note the schedule and that they far exceed everything that is required from this municipality.

Mr. Watkins called Mr. Doug Doolittle, 31 Malcolm Place, Mahwah, NJ, who was sworn in by Mr. Schuster. Mr. Doolittle was proffered as a professional engineer. Mr. Doolittle noted that he is a licensed professional engineer in the State of New Jersey. He was graduated from the New Jersey Institute of Technology in 1979. He became a PE in 1983. He has been practicing for about the last 30 years as an engineer in Northern New Jersey. He has been qualified in front of numerous Planning/Zoning Boards, Mayor and Council, Bergen County Superior Court as an expert in engineering in Bergen, Passaic, Essex and Hudson Counties. Mr. Schuster asked if he has ever appeared before any Board in Cresskill before. Mr. Doolittle said that he has not. Mr. Schuster noted that he shall be deemed an expert.

Mr. Watkins asked Mr. Doolittle if he prepared the plans that are the subject matter of this application. Mr. Doolittle stated that that is correct. Mr. Watkins asked, geographically, where the subject property is located. Mr. Doolittle noted that is located on Truman Drive. It is Lots 23, 24 and 25 in Block 90 in the Borough of Cresskill. Mr. Watkins asked what the size of the property is, as it exists today. Mr. Doolittle noted that the size of the property is 133,644 square feet, a little over three acres. Mr. Watkins asked, in the zone in which the property is located, what is the area requirement. Mr. Doolittle stated that it is 40,000 square feet for the R-40. Mr. Watkins asked if the applicant were to subdivide it this into three lots, if he could potentially have three building lots. Mr. Doolittle agreed.

Mr. Watkins asked Mr. Doolittle to go over the zoning schedule to ascertain if there were any variances for the application. Mr. Doolittle noted that the scheduled as shown is on the plan which is depicted as Site Plan Rio Vista LLC, Truman Drive, Lots 23, 24, and 25, Block 90, Borough of Cresskill, Bergen County, New Jersey, prepared by McNally Engineering, dated October 3, 2008, last revised July 30, 2009. On the limiting schedule they are required to have a 40,000 square foot lot area, where they have 133,644 square feet, the minimum frontage required is 150 and they have 540.3, the minimum lot depth required is 200 and they 212.99, the minimum building setback is 50 feet and they have 88.39 feet, minimum one side yard setback is 30 feet and they have 52 feet, the minimum total setback two side yards is 60 and they have 342.74, the minimum backyard requirement is 75 feet and they have 77.34, off street parking spaces required are three and they are providing three, the maximum building height is 2 ½ stories and they are proposing two and a height dimension of 33 and they are proposing 32.15, the building coverage requirement is 12.5 and they are at 12.42, the impervious coverage is 35% and they will be at 22.71%, the FAR percentage is 20 and they are at 13.46 and the minimum floor area of 1,200 and they are at 17,990.

Mr. Watkins noted that they received a report from the Borough Engineer, Mr. Paul Azzolina, and asked Mr. Doolittle if he had the opportunity to review. Mr. Doolittle stated that he did. Mr. Watkins asked him to go to page 5 of 9, V-Design Detail waivers and de minimis exceptions and asked him to go over them and why they are requesting them. Mr. Doolittle noted that waiver #1 is that relief is required with respect to the following deviations and requirements of Chapters 218 & 234 of the Cresskill Code: a) Survey of Properties within 200 feet; and b) Transit Traverse Lines and Field Markout. Waiver #2 - a de minimis

exception from the requirements of the Residential Site Improvement Standards (RSIS) is also required with respect to the construction of sidewalk improvements along Truman Drive. Mr. Watkins asked him to deal with that one. He stated that if the Board decides not to grant that waiver, they are prepared to put sidewalks in. He asked what impact the placements of sidewalks would have on the aesthetics and the visual denotation of the buffer that currently exists off of Truman Drive onto the subject property. Mr. Doolittle noted that currently there is an area between the existing curbline and the existing right of way line that is dimensioned at 10 feet that is currently heavily landscaped with shrubs and trees and that's the area dedicated for the sidewalk and by putting that sidewalk in, it would do serious damage to the landscaping and the trees that are there and certainly a lot of it would have to be removed to put the sidewalk in.

In continuing with the waivers, #3, this office takes no exception to the granting of these waivers and de minimis exceptions. #4, the Board is asked to consider granting the applicant waiver and exception relief and advise the applicant accordingly.

Mr. Watkins noted that there are a couple issues that relate to driveways in Mr. Azzolina's report. There is an existing access driveway. Mr. Doolittle noted that there is an existing access driveway about in the middle of the property off of Truman Drive. It is depicted on the survey. It is paved in to a certain point and it does access the property and it is currently used primarily for maintenance operations on the site itself. The applicant proposes to keep that driveway. Mr. Watkins asked what the impact of the development of this lot, dealing visually from Truman Drive looking onto the property, how many bushes and how many trees do they have to take out of that area to put in the circular driveway. Mr. Doolittle noted that there is going to be two driveway approaches which are a minimum width. There are approximately nine shrubs on the northerly driveway that will be removed. There are five shrubs on the southerly driveway and there are two trees within the circular drive that will be removed. They will be replaced with additional landscaping and screening. Mr. Watkins asked what they are proposing to replace them with. Mr. Doolittle noted that they are proposing to replace them with numerous trees that are between 12 and 16 feet. Mr. Watkins asked if they were taking out some bushes and replacing them with trees that are between 12 and 16 feet tall. Mr. Doolittle noted that that is correct. Mr. Watkins asked how many trees they were going to put in that area. Mr. Doolittle noted that he believes it is between seven or eight trees between the street and the circular driveway and there are additional trees which will go in front of the building between the drive and the building. Mr. Watkins asked what impact that would have, from an aesthetic visual standpoint, if you are on Truman Drive looking in on the development. Mr. Doolittle stated that the only visual impact it would have is through the actual driveway openings which are only 16 feet on both sides, and what you will see actually up that driveway is additional landscaping in front of the structure itself to soften the impact.

Mr. Watkins noted that this application consists of, in compliance with the Zoning Board, the criteria for a residential dwelling, but we also know that there is an 85 x 120 foot proposed indoor ice hockey rink. Mr. Doolittle agreed. Mr. Watkins noted that one of the concerns that he would have with this kind of application, although it is permitted, is what impact is the utilization of this area going to have from a parking standpoint. Mr. Doolittle noted that there is minimal parking on the property, about four vehicles. Any additional parking will be parked on the Alpine property to access this. The owner is the same for both. That is what's contemplated with this application.

Mr. Watkins noted that as it relates to drainage, they have covered everything that was asked of them. Mr. Doolittle noted that they have. They have provided seepage pits with strip drains to pick up the entire driveway area. They have provided seepage pits for the entire roof area and they have provided drainage reports. There are some minor revisions that are required by the Borough Engineer's office which they can certainly comply with. Mr. Watkins noted that in order to construct this structure, they will need a soil movement permit. Mr. Doolittle agreed. Mr. Watkins asked him to go over his calculations as it relates to that activity. Mr. Schuster marked the colored rendering of the site plan as Exhibit A1. Mr. Doolittle noted that the plan that the soil quantities are coming off of are labeled Soil Movement Plan for Rio Vista LLC, Truman Drive, Lots 23, 24 and 25, Block 90, Borough of Cresskill, Bergen County, New Jersey. What they are proposing is a total soil cut of 2,564 cubic yards, a fill of 465 cubic yards, with a net removal of 2,099 cubic yards. That will be moved off site.

Mr. Watkins asked Mr. Doolittle, based upon his analysis of the ordinances of Cresskill, if the applicant seeks any variation, deviation from the limiting schedule as it is so constructed today. Mr. Doolittle noted that there is none whatsoever. Mr. Watkins had no further questions of this witness.

Councilman Brennan noted that Mr. Watkins stated he could split this property into three lots. He asked if it is currently three lots right now. Mr. Watkins noted that it is a legal issue. When it was purchased, it was purchased in one deed with the property in Alpine. He deferred to the Board Attorney, but it is his recommendation that they merge the three lots in Cresskill into one. The way that he reads the deed, there would have been merger of those three lots because it is on one deed in one ownership. It is just a technical issue, because yes he is correct that they could build single family residential structures on these lots. Mr. Schuster noted that it has some ramifications down the line for purposes of development but also for tax purposes because obviously separate lots would be taxed a lot higher than one large lot which is primarily excess land.

Mr. Laurita stated that a placement of a hockey rink approximately 10,000 square feet on land with property looks to him as unusual. The whole thing is that it still is a residential situation and he finds that a little fuzzy. Here is a hockey rink that is almost a legal size hockey rink that you are placing in a residential area. Mr. Watkins noted that architecturally he will have his architect testify to the issues of noise and those issues. From a legal standpoint, and he will defer to the Board's attorney, this is a legal use in the zone. Fuzzy or not the question is, do they violate the zoning ordinances and the answer is unequivocally not. Mr. Laurita stated that in his residential point of view, this seems very strange.

Ms. Tsigounis asked that the Board's attorney clarify that it is a permitted use. Mr. Schuster noted that we had some discussions about this along the way. The issue boiled down to whether or not the structure was going to comply with Section 275-35 as it pertains to minimal livable floor area for a residence. It is his understanding that there is at least 1,200 square feet of residential living area, so it seems to be that that's the tail on the dog and they satisfy that requirement and that is the basis upon which they are proceeding, as far as he understands it, without a variance. Mr. Watkins noted that that is correct. He will have testimony from the architect on that, too.

Mr. Morgan asked if this was going to be for private use only. Mr. Watkins noted that yes it is. Just for point of information, his client has three kids and they are the ones that are going to be using it. It is not for leagues. He noted that he did Patrick Ewing's house and he has an indoor basketball court in his house. That doesn't mean there are leagues. That doesn't mean that we are not going to permit it, because it is a residential structure. This is not an accessory structure. This is a single family residential structure. Mr. Schuster noted that that was the whole point of having the residential component. Councilman Brennan noted that this seems like a clever way to serve the issue. Mr. Schuster noted that that may be true, but this is how the ordinance reads and this is how the applicant has come in and this is where we are.

Mr. Vieni stated that they mentioned that some of the parking would be attributed to the Alpine piece. He asked how much parking would be on the Alpine piece. Mr. Watkins noted that that driveway is extensive. They are not looking to park on Truman Drive at all. He thinks the Board's concern is Truman Drive and they are prepared to say that they are not going to park on Truman Drive. There currently is sufficient parking on Rio Vista Drive and his client's driveway, which covers the activity today. Councilman Brennan noted that the question does come up because the gentleman stated that this is going to be for four children and the family, but meanwhile there is a lot of ancillary parking in another town that is right next door and then there is 100 people here using this lot and then there is noise issues. Mr. Watkins noted that that is a very good question and that is why he brought the architect from Virginia who is going to testify to that because they did take that into consideration.

Mr. Watkins called his next witness. Mr. Eric Millburger, 7500 South Morro Parkway, Huntsville, Alabama, was sworn in by Mr. Schuster. Mr. Millburger was being proffered as an architect licensed to practice in the State of New Jersey. Mr. Millburger stated that he graduated in 1986 from Auburn University with a five-year degree. He is currently either practicing, licensed or has practiced in 22 states and is currently

licensed in the State of New Jersey. His license number is 13645. Mr. Watkins asked if he had the opportunity to design single family residential structures. He noted that he has done at least 100. Mr. Watkins moved his qualifications as an architect licensed in the State of New Jersey. Mr. Schuster asked if he has appeared in front of any Boards in the Borough of Cresskill. Mr. Millburger has not. He has appeared before boards in the State of New Jersey. Mr. Schuster noted that he is deemed an expert.

Mr. Watkins asked Mr. Millburger if he is the architect that designed this single family structure. Mr. Millburger stated that he is. Mr. Watkins believes that the full 18,000 square feet is part of the house, because you don't by definition describe the activity of a residential dwelling. But, be that as it may, since the question was raised of the 1,200 foot minimum criteria, these questions will be proffered as it relates to that. Mr. Watkins asked Mr. Millburger to find what he perceives to be the minimum livable area of the structure. Mr. Millburger described the minimum livable area, and he tried to take a look at it from his point of view, too, as far as what is actual habitable, kitchen, living spaces, living room and such. In the basement area you have a little bit over 1,200 square feet, 1,231 square feet. That is for the sleeping area, the kitchen area, the immediate living area. He has approximately 2,000 square feet, actually 2,598 square feet that is in the upstairs. That includes the stairwell, a living area, the reading room, a restroom. You have roughly 3,000 square feet or a little bit more as far as habitable living area, taking away a laundry area and the other spaces that they do have that would be part of the residence also. Mr. Watkins noted that it is Mr. Millburger's testimony that the minimum criteria is 1,200, where approximately there is 3,000.

Mr. Watkins asked what the standard size ice hockey rink is. Mr. Millburger noted that it is 85 x 200 feet. The applicant is proposing to house an 85 x 120 foot ice hockey rink inside the structure. Mr. Watkins asked if that makes a significant difference as it relates to the number of people that can play, assuming that they are going to play hockey and they are going to have a game. Mr. Millburger noted that it makes a great difference because you can't play any sanctioned games. Mr. Watkins asked if he designed other structures that house ice rinks. Mr. Millburger noted that he has designed ice skating facilities since 1986 including the largest skating facility on the east coast in Hackensack, New Jersey. He has some familiarity with ice hockey rinks. He noted that on a typical sanctioned rink there is 200 feet. They do know that over history of time, you might have 195 feet or some variation of that, but you can't play a sanctioned event in this. This is strictly a game play event for fun for kids. Mr. Laurita asked that it is not a professional ice hockey rink. Mr. Millburger noted that that is correct.

Mr. Watkins asked about noise. He noted that they have really gone out of their way, they think, to insure that there will be no noise pollution to the neighbors. He asked Mr. Millburger to tell the Board about the noise. Mr. Millburger noted that they looked at two factors of noise. One is the very common one, it is like a swimming pool outdoors when you have a swimming party. This is an enclosed facility so any normal kids playing is all contained inside the building. They have done some advantageous pieces to the building itself. The building structure is a block wall structure. All the block walls are insulated walls. All the windows are triple glazed insulated windows to control the sound from a child. On the refrigeration side where they have their equipment, they brought all their equipment inside the building. The only noise they have is the air transfer like they would have on standard house equipment sitting outside your house. Every piece of refrigeration equipment is inside. They have also taken special care in that the entire walls of the mechanical room are sound absorbing walls to make sure that there is no sound that is going outside this building. Mr. Watkins, asked, based upon Mr. Millburger's expertise in the field of architecture and the designing of these types of facilities, is it his opinion that this structure, when constructed will eliminate any noise infiltration to the neighbors. Mr. Millburger agreed. He designed it specifically to ensure that that would not occur. Mr. Watkins had no further questions of this witness.

Mr. Laurita asked, in their opinion, does the structure blend in with the houses in the area. Will it stand out? Mr. Millburger noted that they have taken great care in making certain that this is part of the community. The first thing you hear is a trigger word and that is scale. Scale is very important here. First of all, how does the volume of the building work with the existing volumes of the buildings in the neighborhood? They have got a little bit of mixed use, but they have some very large houses in the building area. By scale, the volume of their building has been brought down very well by using the type of material they use, the scale of the building with the changing of the structure, so it is not that massive.

Walmart structure. They have made sure that the building has windows. For example, their doors and windows are very human in scale. They are not very massive doors or very massive windows. The windows that you have are very small and personable. They don't have large expanses of material. The materials he used, and he pulled them out of the neighborhood, are stone and stucco, which are two very common materials that you see throughout. They wanted to make sure that the materials would blend in, then they put them into the scale of the building making sure they are broken up. They have large scale of stone that are broken up with windows and glass so it becomes more of a residential feel and a human scale as far as feel.

Mr. Vieni noted that they mentioned the living area is approximately 1,200 square feet. Mr. Millburger noted that the living area is broken up and it depends on what you want to call living area. He is trying to put himself into what he is asking. His living areas downstairs are some laundry area, a bathroom area, the sleeping area and a meeting/living area. But he also has upstairs, with a lounge, a reading room and a bonus room for the kids. That is another almost 2,500 square feet. Mr. Vieni confirmed that the bedroom area is below ground level. Mr. Millburger noted that the bedroom in the basement is correct with appropriate egress and access for those areas. On the ground floor he also has a changing area that can also be used as well as a living area and he does want to bring that in because it is a changing area for the kids. Mr. Vieni asked, being a hockey father for 12 years, how they intend to service and clean the rink, for example with a Zamboni. Mr. Millburger noted that they have a Zamboni in the garage and that stays in there. Mr. Vieni asked where they are going to dump the ice. Mr. Millburger noted that they have a pit so all the ice stays inside and goes out into the pit.

Councilman Brennan noted that they call this a residence but you can also call it a clubhouse couldn't you? Mr. Watkins stated that the ordinance that the Borough has they have strictly complied with. He noted that his job as an attorney is to take the ordinance and read it. The Board attorney has already stated that they have complied with the ordinance. The fact that you may want to call it a clubhouse, you certainly can, but from a perspective of the zoning ordinance, it is a permitted use. They don't need any relief whatsoever. Nothing. He calls it a single-family residential structure in compliance with the ordinance. Mr. Vieni asked who is going to live there. Mr. Watkins noted that it is either going to be a caretaker family or it may be rented out. There will be occupancy for residential purposes.

Mr. Morgan asked if there are showers and locker rooms for the kids. Mr. Millburger noted that there is a shower by the bedroom and a shower on the ground floor that is set aside for the kids to change just like you do at a pool house. It is set aside a special floor for them to store their sticks and that type of thing.

Mr. Watkins had nothing further.

Mr. Vaccaro opened the meeting to the public. Mrs. Mary O'Gorman, 179 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. She lives right across the street from the proposed dwelling. Mrs. O'Gorman stated that she can't call it a home. She has done some work on the internet looking around. She knows the lawyer and legally it sounds like he is obeying the letter of the law but she doesn't believe he is obeying the intent of the law. From all the other ordinances the Borough has in the R-10, R-30, or R-40 Zone that you are allowed to build a home there, but you go to great length to describe if you want to have a home office, it can be only such a size, it can only another person working in it. The laws on the books of Cresskill look like the intent of this building should not be allowed in a residential area. The intent of this building is for recreation, it's for playing hockey and it's not for living in. She doesn't feel that just because he put on a few extra feet so he can pretend he's obliging the Board with the legality of the law that he should have the right. She doesn't think that anybody else gets that right.

Ms. Elena Sisti, 187 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. She lives directly across from the entrance to that property. Ms. Sisti noted that she doesn't know if the Board is aware of it or not but there is a current structure that has been on that property for the last two or three years that has been a hockey rink that has been used as a hockey rink. Whether you want to say that the children will play only with each other or not, the facts are that when a game is played, number one the lights are extremely bright so that it permeates that whole area. Her kids can't go to sleep because all they look at are the lights. The noise level with the external air conditioner has to be quite intense if it's

going to keep the ice frozen. They can all hear it. The worse is that when they are playing hockey there is parking, because kids can't get there by themselves. However many people are parked, there are about 7-10 cars parked along the street in Alpine when they are playing. The experience is there are a lot of people coming in to play hockey than they said it is. They have been living with all the noise as well as the intrusion into their homes. This sport is very loud and intrusive and it is not what they want in their neighborhood. The final thing is that this house is rather large. It might be comparable to maybe the larger houses in Alpine, but it is not comparable to theirs. Their houses are about 5,000-6,000 square feet. They are talking about a 20,000 square foot home, so it is rather a big, big, big house that they need to look at, or structure. It's also, once again, intrusive. They are there, they have a beautiful home, they have a beautiful street. It's quite and this is clearly an imposition of someone's lifestyle choices and it's being forced upon them. She noted that Englewood Field Club has a ice hockey rink and that's where her kids placed hockey, so why can't his kids play there. Why do they have to get their own hockey rink.

Ms. Sarah Wallace, 193 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. Ms. Wallace noted that just as a little background, this hockey rink was constructed at least a couple years ago. At that point, the Building Department acknowledged that it was an illegal structure. The reason why it was not ordered to be taken down was because Mr. Robbins was getting a permit in Alpine because he wanted to build a structure in Alpine. So the Building Department did not make him take down the structure. Last July, he applied with all his engineers and all his architects and all his people and Mr. Watkins was there in Alpine to try to get this structure built in Alpine. The Alpine Building Department turned him down because it was too close to the Cresskill border. He presented all of his facts for a similar structure and they said no. So apparently Mr. Watkins decided to come back to Cresskill and build the structure in Cresskill. At that point, Mr. Watkins acknowledged that he had, in fact, never gotten a building permit for a structure that was an ice skating rink in Cresskill on Truman Drive, when anybody else in the town of Cresskill would certainly have been required to get a building permit for any structure. If you need a patio, you come to the Building Department and you get a permit. But no, Mr. Robbins was allowed to build the Starship Enterprise and deposit it on Truman Drive and nobody has forced him to take it down nor does she understand that he has been required to pay any fines for a structure that is clearly illegal, acknowledged by the Building Department. If she put a structure that was illegal in her backyard, she thinks she would have to pay fines.

Mr. Vaccaro noted that he talked to the Building Inspector and what he said, basically, was that he would levy a fine when it is determined that it is an illegal structure. Until then, it has been under review for the past two years. It has been by the Mayor and Council and has been reviewed by him and that is why the fines were not levied yet. Ms. Wallace asked if the Board finds it acceptable that something has been reviewed for two years to determine whether or not a structure is illegal. Now it is in the hands of the Borough Attorney, who is supposed to make them take it down. But no, so they come back with a huge structure and try to slide through the law with a structure that is clearly on the borderline, that is not a residential structure, to say nothing of the traffic on Truman Drive by construction vehicles with the driveway and all of that. She thinks that he has an excellent attorney and he is very well respected, but the issue is that he made a fool of this town by putting up an illegal structure and nobody made him take it down so he has acted in bad faith.

Mr. Watkins objected because he feels that this has nothing to do with this application. Ms. Wallace noted that it certainly does. She stated that he has acted in bad faith before and how do we know that he is going to act in good faith now.

Mr. Jim O'Gorman, 179 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. Mr. Gorman stated that he lives across the street from the proposed structure. He appreciates the remarks stated by Ms. Wallace, Ms. Sisti and his wife. Mr. Gorman noted that this is really a travesty from his perspective. Trying to sneak through, and it has been pointed out by one of the gentleman on the Board, this particular hockey rink as a residential structure is an embarrassment actually to the citizens. He has some engineering questions to ask and one landscaping question. He noticed that the engineer said he was removing a couple of trees and then he was going to install ones that were 16 feet high. What are the heights of the trees he is removing? Mr. Watkins said they were three feet. Mr. O'Gorman said, before Mr. Watkins says another word, if their plans said anything that he looked at, there were like 27-28

foot oak trees that were to be taken down. Mr. Watkins noted that that is where the building is going. He is talking from Truman Drive, the buffer, to the building. Mr. O’Gorman asked how many mature oaks are they tearing down for this structure. Mr. Doolittle noted that the total tree removal for the structure is 41. They are going to replace them with 37, trees with various trees. Mr. O’Gorman asked the architect about air removal and what kind of mechanical device is moving the air out. Mr. Millburger noted that they have an FCC approved exhaust fan. They have moved all the equipment inside. They have an STC vent to remove the sound what is not removed from the inside. Mr. O’Gorman noted that all he can say is that Ms. Sisti and Ms. Wallace are absolutely correct. You move to Cresskill for a reason. It is beautify up there. You can hear the snowflakes practically. At 4 o’clock in the morning on a winter’s night, actually at 4 o’clock last night, you can hear this air conditioning unit. It was horrible.

Mr. Vaccaro asked about the noise level. Mr. Millburger stated that there are several things that are different. First they have an insulated building so their energy use is hugely different because they have a truly insulated building to replace the tent, so their unit works differently. They also have technology that has changed. He is not sure, but that is probably a ten-year old piece of equipment. That he does not know because that is not something that he was involved in. So, the technology that they have today they have a better piece. Also, typically they have the equipment sitting outside. This they brought inside so a great deal of sound is absorbed by the walls themselves. And when you put them through the vent that is an STC vent designed to remove the noise, it has a buffering unit itself.

Mrs. O’Gorman asked the architect how many residential homes of this caliber with an ice hockey rink has he designed and have actually come to fruition. Mr. Millburger noted that in relation to the number of facilities that he has done, he has done just a couple of indoor recreational facilities. You have to spread out over the whole country by the number of professionals. It is not something they do every day. They don’t do a residence every day. They don’t do a church every day. They don’t do a school every day. You have a variety. Mrs. O’Gorman noted that she is only concerned with residences that have an ice hockey rink, because she knows that he is the architect for the ice hockey house in Hackensack. He is a renowned architect for recreational structures, be it ice hockey, swimming facilities, colleges, she understands that. But how many homes has he built with an ice hockey rink of this size in a residential area. Mr. Millburger noted that this will be his second recreational facility, the first being a swimming pool and this being an ice skating rink.

Mr. Jeff Sokolin, 172 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. Mr. Sokolin noted that his property is right next to the property in question. He stated that he absolutely objects to this structure being put up and as it is they hear a lot of noise and a lot of traffic and a lot of pollution. This is a residential area and he has lived here for 10 years plus and he will fight tooth and nail to the end and there is no reason there should be a hockey rink put up in a residential area. He agrees with all the people that spoke before him.

Mr. Schuster noted that we do have a noise ordinance so, therefore, the applicant will comply with that. Mr. Watkins stated that they would. Mr. Schuster also noted that there is a light ordinance about the amount of illumines that can be thrown on surrounding properties and he asked if they will comply with that also. Mr. Watkins stated that they would.

Mrs. Elaine Sokolin wished to be heard and was sworn in by Mr. Schuster. Mrs. Sokolin asked about health reasons and environmental concerns regarding the refrigerant or Freon or whatever has to be used and obviously how is that going to have an effect. Mr. Millburger noted that that is one reason they are not using ammonia like you might see in some areas like in your Coca-Cola plant. They are using the same refrigerant, probably even newer refrigerant, than you have in your home. Mrs. Sokolin noted that you still don’t know the effects of that new refrigerant. That is still going to take years for the effects to come by. Then ten years later we are going to hear people who were exposed to that ten years ago now have these problems. Mr. Millburger noted that the first thing is that you are not being exposed to it. Mrs. Sokolin stated that of course they are exposed to it because they are right next to it. Mr. Millburger noted that you wouldn’t be exposed to it in your own home unless you had a leak in your car air conditioning or a leak in your home. They are using the same Freon that is approved by codes today. Mrs. Sokolin stated that is has to be exhausted somewhere. Mr. Millburger noted that the Freon doesn’t exhaust, it

stays in the system. Mrs. Sokolin noted not the Freon but the air. Mr. Millburger stated that it is the same air that you have in your house. It is just circulating inside the building or outside the fresh air. There is no Freon in that air. It stays inside the unit just like your car or your home. It just circulates in the pipe. Mr. Sokolin asked about the ice. Mr. Millburger noted that ice is ice and it is just water and air.

Mr. Millburger explained that it is just like the refrigerator. You have a compressor like you have in a car or an air conditioning unit. It has pipes on one side, which are the small copper pipes that get very cold. The other side you have pipes that get very hot. What they do is they have the system sitting inside of the garage. It's got one set of pipes that are the cold pipes that run through the concrete floor. They are encased in concrete. The other set of warm pipes run underneath the ground to keep the ground from getting too cold. It is a self contained unit. The cold pipes are in a container, if you will, and the pipes that actually go through the floor are another medium. They have a tank, if you will, that the cold runs through and the pipes go through and they change the temperature from one to the other. All the Freon is contained in a system, just like your refrigerator, just a different size, and the pipes that go through, contained in the floor, are just a different size. There is no leakage of any fluids from under the floor system. There is no exchange of fluids, no exchange of Freon anywhere else. The reason you have ice is because you have taken that concrete floor and made it very, very cold and you are pouring water on top of it. There is no exchange of Freon, ammonia, or anything.

Mrs. Sokolin asked how well the structure is sealed. Mr. Millburger noted that the fluid doesn't escape. Mrs. Sokolin understood that, but just like electricity in the wires doesn't escape yet it produces the magnetic field which is not good. Mr. Millburger again stated that there is no fluid leakage from the compressor system. Mrs. Sokolin noted that it is a residential area and they are not sure what effect it is going to have on them down the road.

Ms. Sarah Martin, 193 Truman Drive, wished to be heard and was sworn in by Mr. Schuster. Ms. Martin stated that she thinks it is insulting that Mr. Robbins is trying to pass off his ice skating rink for a home by tacking on a couple rooms to make an otherwise illegal structure acceptable in their neighborhood. It honestly disgusts her and she just thinks that this should not be allowed. It is a rec house. It is an ice hockey rink. Who is going to want to live in this is her question. She doesn't think this is appropriate for a residential area. If you want to have an ice hockey rink, then you should go somewhere you are not going to disrupt anyone. She thinks it is appalling.

Mrs. O'Gorman stated that she thinks it is really sad that in 2009 when everybody hears about global warming and we are trying to be "more green," apparently Mr. Robbins doesn't worry about that, because this is a huge cavernous room that he is going to keep refrigerated year round. Right now he has beautiful trees there that clean the air and keep everything cool and instead he is just going to ignore what all good citizens of this country should be trying to do and go green. She thinks it is really sad. She thinks it is sad that Cresskill has to be the first town in American that gets an ice hockey rink in a home. She thinks that is a very sad statement for Cresskill.

Mr. Vaccaro made a motion to close the public portion of the meeting. The motion was seconded by Ms. Tsigounis. All present were in favor. Motion approved.

Councilman Brennan appreciates Mr. Watkins testimony today and the experts, but either way you look at this thing, he believes the architect from Alabama has probably heard this expression before, it is a pig with lipstick on it, because it is not what it seems to be. He doesn't think it fits into a residential neighborhood even though you throw an apartment on the side of it.

Mr. Laurita noted that they mentioned the fact of a basketball court. He is astonished that they are putting something like that in a residential area. He feels that you mention Cresskill twice. Cresskill is a GREAT town. The fact that all these people came down to talk about it is something that you are mixing oil and water right in front of everybody and he doesn't think that is the right thing to do.

Mrs. Bauer noted that nobody addressed the property value situation. Would this structure bring down the property values on the street. Mr. Watkins noted that he couldn't answer that question.

Ms. Tsigounis stated, to reiterate what the public is trying to say, is that it is not in context with what we look to see in the area. In that situation she thinks it would devalue it.

Mr. Morgan stated that he is not sure that after a period of time these young chaps are going to be up and out and all of a sudden this rink is going to be there. What are they going to do with it five years from now when these kids are gone and we have an ice skating rink there that doesn't belong? He takes exception to it.

Mr. Watkins stated that it is one thing to say that you don't like something and it is another thing to say, well we have a zoning ordinance and we have to at least look at the zoning ordinance. If you look at the objections that were raised tonight, they were raised because of the structure that currently exists on site. It's lit all night. We hear noise constantly. This is the structure that exists today. Their proposal is geared in insure that all the objections that were raised tonight are dissipated. He could have done an accessory building that had all this stuff outside, merging the two properties, Alpine and Cresskill. They chose not to. What they thought they were doing was something that was better for the neighbors. They may not think so. This is by design a single family house. The Board has professionals too. When the Board's professionals write review letters, they write things like this, and this is from the Borough's Engineer: With respect to the Code requirements pertaining to Minimum Livable Floor Area standard we note that 1,200 square feet, and so on. The subject dwelling appears to contain significantly more area than the stated minimum. He suggests the following: if his neighbors came down and he lived in Cresskill and he wanted to build a house and have an indoor swimming pool, is it the fact that they don't like an indoor swimming pool. Does that give you the right to say I am going to vote no to this application because the neighbors don't like it. The answer is no. You wouldn't even think of that. Suppose he wanted to put in an indoor tennis court, or two tennis courts. Under the ordinance, he has the absolute right to do that if it is housed inside the dwelling. The ordinance is specific, and Mr. Azzolina notes it. As an accessory use, and the only thing covered as an accessory use, believe it or not, from a sports activity standpoint, is a tennis court. This is not an accessory use.

Mr. Watkins wondered if the Board would be happier if he came in and revised the plan and had 10,000 square feet of livable space and the rest was the ice hockey rink. Would that make it more tenable? The answer is you have a zoning ordinance. He should not be chastised or condemned, nor should his client, because they complied with that ordinance. That is what the Board is doing tonight, because the neighbors, and he is glad they came down, said they don't like. He has been doing this for 33 years and if every Board said, I'm glad you came down, you don't like it, we are going to vote no, we wouldn't need Boards, we would just need neighbors.

Mr. Watkins stated that the Board took an oath. They swore that they would uphold the ordinances of this town and they are not doing it. They are shaking their heads that they are going to vote no. But the bottom line to this, if it complies to the ordinance, what gives the Board the right to vote no other than the fact that you think it is something that it is not. Under the ordinance it is exactly what it is. That is a \$6.5 million building that was designed to ensure that they are eliminating noise pollution, that they are eliminating light pollution. That is why it was designed this way. They didn't come in with a piece of junk. The neighbors don't like the fact that some trees are going to come down. Well, you deny the application and instead of one house you get three. How many trees come down with three and if the neighbors come down and say, you know what, Larry Robbins has an obligation to think green, I suggest that maybe everybody else should of and the East Hill should have stayed woods. But it's not and nobody has the right to tell him that he can't develop this property in compliance with the ordinance, whether it's one big house that complies or three. Are we going to deny the application if he comes in with three single-family houses because the neighbors don't like it because they want trees? No, you can't. You don't have the right to do that. You have the obligation. You swore to uphold the ordinances of the municipality when you were put up on the Board. And to say you are not going to do it because the neighbors don't like it or, gee whiz it's not a house, it is a house. It's a house under the town's ordinance. That's not his fault. That's not his responsibility.

Mr. Watkins continued stating that the governing body chose to conduct themselves, and to have an ordinance in place, and that is what we are speaking about tonight. And to say OK the neighbors don't want it, therefore, I am voting no, or the ice hockey rink is too big, I'm going to vote no, the Board can do whatever they want and he suggests that they will. But when you do it, say why am I here? Don't I have an obligation to uphold the ordinances in this town or do I just say, Willy Nilly, I don't care. That's not fair to the applicant. It's not fair to Cresskill because if you do it to Larry Robbins, why can't you do it to the next guy. Oh, he has an indoor swimming pool, we don't want that. Let's deny him. Why do you have ordinances? He suggests that you have them for a reason and they have complied with all those reasons.

Ms. Tsigounis noted that the Board is also here to represent the community as well.

Mr. Watkins stated that the Board can do what they want, but then take the zoning ordinance and just throw it away and sit up here and figure out what you want to do when the neighbors come down because they will tell you. The Board has an obligation to uphold the zoning ordinances.

Councilman Brennan stated that he believes that what is before the Board is skirting the zoning law and not upholding it to the letter. Mr. Watkins noted that the Board can vote any way they want and he understands the Board's position, he just has a different view. Councilman Brennan respects Mr. Watkins's position and he respects the neighbors and he is not voting against it because the neighbors are down here. He is voting against it because he doesn't believe that it is a residence. He doesn't think the intent of this application is true.

Mr. Vaccaro asked Mr. Schuster to make a statement to the Board. Mr. Schuster noted that the critical question that has been raised here is the nature of the particular use. At the very outset he cited a specific ordinance. Mr. Watkins interrupted and asked if the Board would like to take until the next meeting to digest the ordinance. Mr. Schuster stated that if the Board would like him to prepare a memorandum, maybe that is what they would want him to do rather than just shoot from the hip. Whatever the Board's pleasure is. Councilman Brennan asked about the vote. Mr. Vaccaro asked Mr. Schuster to give his legal opinion. Mr. Schuster noted that as he said from the outset, the ordinance provides that the residence is required to have a minimum of 1,200 square feet, which it clearly does. It has excess of that. The issue boils down to what is the use of the property. Is it being used as a residential property with other accoutrements to it? Well, yes. But if you look at the nature of the entire area, Alpine, Cresskill, what's there is, with all due respect to the applicant and to the residents, most of these houses are sort of off the chart in many ways. For instance, when you classify properties, these are mansion style houses no matter how you slice it. And they have all kinds of other accessories in them. They have bowling alleys, they have elevators. They have all these things in these houses. Many years ago he heard a petition on a house in Alpine which had an enclosed swimming pool with bedrooms around it and a nine whole golf course as part of the property. He doesn't think anyone at the time assumed that that was being used as a golf course use any more than this is really going to be for a hockey use, although that is the argument that is being made. From the very precise meaning of the ordinance, and he thinks that is what the applicant is relying on, the fact of the matter is, is that it satisfies, at the very least, the minimum residence size for the area. Even though there are some other uses which would not be strictly characterized as residential, he has what is required, which is why he is here without the benefit of asking for a variance.

Councilman Brennan made a motion to deny the application. Mr. Morgan seconded the motion. Mr. Schuster noted that a vote in favor is a vote to deny the application. On Roll Call: Mr. Vaccaro voted no. Councilman Brennan, Ms. Bauer, Mr. Morgan, Mr. Mozur, Ms. Tsigounis, Mr. Vieni and Mr. Laurita all voted yes. Motion denied.

Other Business

None.

Motion was made by Mr. Morgan to adjourn the meeting at 8:54 PM, seconded by Mr. Laurita. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for Tuesday, August 25, September 8, September 22, and October 13, 2009, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary