

MINUTES

CRESSKILL PLANNING BOARD

December 11, 2018

Mr. Morgan opened the meeting at 7:32 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call: Mayor Romeo, Councilwoman Tsigounis, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Mandelbaum, Mr. Ulshoefer, Mr. Malone and Mr. Rummel. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Schuster, Planning Board Attorney.

Mr. Rummel made a motion to approve the minutes of the November 27, 2018, meeting, seconded by Mr. Mandelbaum. All present were in favor of the motion. Motion approved.

Correspondence

Letter of Introduction from Mr. Bob Rusch, Construction Official & Zoning Officer, dated November 9, 2018, sending a representative for Delvina Restaurant to this Board for approval. They are proposing to update the sign of the restaurant at 172 Piermont Road. The representative brought the sign. He is proposing to move the existing sign from the bottom and move it higher. It is the same sign. Mr. Calder made a motion to approve, seconded by Mr. Rummel. All present were in favor. Motion approved. A letter was sent to Delvina Restaurant with copies to Ms. Francisca Maragliano and the Building Department. File.

Invoices from Mr. Steven Schuster for services rendered relative to the Cresskill Planning Board for the month of September 2018 in the amount of \$3,114.37, for the month of October 2018 in the amount of \$2,886.67 and for the month of November 2018 in the amount of \$2,798.17. Mr. Ulshoefer made a motion to approve, seconded by Mr. Calder. All present were in favor. Motion approved.

Subdivision Committee

Councilwoman Tsigounis had nothing to report.

Report from the Borough Engineer's Office

Mr. Azzolina reported that Application #1536M, 26 Cresskill Avenue, is an amendment of the prior application, which was a three-lot subdivision on Cresskill Avenue. This is now a two-lot minor subdivision. The applicants are present. The question is, is a new application number required for this and a new public hearing required. Mr. Schuster noted that technically it should be a new application, but the issue with that is they have to pay all new fees, and all the new escrow, etc. He doesn't have a problem in treating this as an amended application. Mr. Azzolina stated that it is his understanding that

this is an application for development and it will require a Public Hearing. The only question is whether it will be given a new number or use the old number.

Mayor Romeo stated that it is a subdivision and site plan approval. There are no variances on the houses. They should come in for a Public Hearing and we won't charge them again and will just subdivide the lot. Mr. Rapaport stated that in that case there is no need for a Public Hearing. Mr. Azzolina noted that under the Municipal Land Use Law, some towns have a sub-committee that can approve minor subdivisions. We haven't had one in this town in many, many years. This is an application for development which would require a Public Hearing.

Mr. Schuster noted that the previous application was denied and there was a resolution. You are now filing a new application with new plans and new fees. He doesn't care one way or another if the town wants to waive the fees. The subdivision has to be done. He may have to pay additional monies for engineering fees and legal fees and stuff like that, but he is not going to have to pay a new application fee. Mayor Romeo noted that he spoke with the Borough Attorney and he said we could waive the application fees, but he has to come in for the subdivision. Mr. Rapaport asked if this could be discussed tonight. Mr. Schuster noted that he has to have a hearing with notifications and he has to advertise.

Mr. Mandelbaum asked if there were two deeds. Mr. Azzolina stated that there are two deeds, but they are moving the lot line. They are coming in for a minor subdivision and site plan approval for each of the lots they are creating. They are not asking for any variances. Mr. Azzolina reviewed the plans and everything is complete and they are ready for a hearing. The hearing was scheduled for January 8, 2019.

Old Business

None.

New Business

Mayor Romeo stated that we need changes for three ordinances for COAH. They sent everything down and they wanted some minor changes at the Council On Affordable Housing. Mostly grammatical changes. Things that were left out corrected and put back in. They have already been approved by the Borough Attorney and the Council has looked them over. He just needs the Planning Board to bless them saying that it is okay for them to proceed. Everybody was in agreement and Mr. Morgan signed all three ordinances and they were given back to Ms. Maragliano. Copies were given to Mr. Schuster.

Public Hearing – Application #1545 – 105 Westervelt Place

Mr. Jose Gennaro, 193 New York Avenue, Newark, New Jersey, was sworn in by Mr. Schuster. He is a licensed architect and planner. He has never appeared before this Board before. He has appeared before 25-30 other boards in New Jersey. His licensed is currently in good standing. He was accepted as an expert for today's purposes in the areas of architecture and planning.

Mr. Gennaro noted that they have an existing 100 x 148-foot lot, which contains a 2 ½ story one-family dwelling. The proposal here is to demolish the old dwelling and build a new one-family, two-story dwelling with an attached garage. The only reason they are here is the distance of the 10-foot minimum distance from the property line to the driveway. That is for about 33 feet in front of the garage. They start with 10 feet and then they have to widen it to be able to pull out of the garage.

Mr. Gennaro stated that Mr. Patel's emphasis in designing the house was always to have the side loading garage on the other side. That is for religious purposes that he can explain better than Mr. Gennaro can. That was the original proposal, with the garage on the side. When they went to submit the plans, they found out they need a variance because of the driveway. It was missed on their part. The next thing was he approached the neighbor on the right side and the neighbor was totally opposed to him having the garages on that side. In order to be a good neighbor, he decided to flip the house to the left side and what they have done then to the interior, they reoriented the rooms.

The house is approximately 4,000 square feet of living space. He showed the exterior elevations with a stone veneer front and the rest of the house is going to be stucco. Mr. Gennaro also showed the engineers plans of how the cars will be approaching the driveway and how they will be going into the garage. They have a total of 25 feet to the property line and they are giving 22 ½ to the curb. The total is 25 feet. In front of the garage for about 34 feet, it is two feet from the property line.

Mr. Schuster asked what the reason they need it there is. Mr. Gennaro explained that Mr. Patel always wanted to have the side-loading garage and that was his goal. That is why they kept the plan that way. They also think it works. They realize they need a variance and they understand that fully, but they feel that it would work. Aesthetically, in his opinion, a garage that goes from the side looks much better than the front of the house. They tried to meet all the requirements as far as the house is concerned.

Mr. Morgan stated that he is a little concerned with the driveway so close to the property line. Mr. Gennaro noted that that was the case with the next-door neighbor on the other side as well. His driveway is right on the property line, so they are not the only ones doing that.

Mr. Gennaro noted that they can meet everything in the engineer's report. It is mostly engineering stuff and they spoke to the engineer and they comply with that.

Mr. Morgan opened the meeting to the public. Mr. Walton Clark, 108 Westervelt Place, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Clark prepared a letter with attachments for the last meeting because he was out of town. He passed it out so the Board could reference the attachments. Mr. Schuster marked it as P1. Mr. Clark stated that he bought his house in 1986 and he was not born in Cresskill but he has lived here about 32 years. He has raised both of his kids here. He is very attached to the town. Over the past several years, the houses on either side of him have been torn down, and now 105, which is right across the street. The first house replaced was 102 Westervelt Place. It was a very old run-down house that was abandoned, and he was very glad when it happened. That lot was like his, 70 feet wide and 150 feet deep so there was a minor variance. He respects the laws of the town, but he also recognizes that there are certain lots that are non-conforming and he actually lives on one of those.

One of the things was he was very disappointed with was on the landscaping of the house. In picture one, you will see the bushes there. There are no bushes in the side or the back, just in the front. Those were actually not the ones the builder put in. The owner ripped the builder's out and replaced them with bigger bushes, but that is the only landscaping that exists at 102.

About a year-and-a-half ago, 112 Westervelt, on the other side of him, was torn down and he came and spoke at the hearing. He remembers at the hearing the Mayor had actually visited the house and expressed how he was disappointed that 13 trees were cut down and we discussed at that hearing that maybe there should be additional plantings put in. He knows that the Board talked about arborvitaes and he is not sure that the Board dictated the kind of bushes, but more should be done. If you look at figure 2, you can see all the landscaping that was done on the second house. The Board's request to the builder was totally ignored. Maybe it wasn't a law that had to be followed, but he thought it was a request that the builder accepted in good faith. He knows that builder has nothing to do with the building here.

Earlier this fall a tree crew arrived to cut down trees and prior to that he actually had spoken to the owner about some beautiful dogwoods that he hoped several would be maintained and he actually mentioned that he hoped to. He also knows that the neighbor on one of the sides spoke to him about the beautiful dogwoods. If they knew they were going to be cut down, they may have offered to pay to move them.

But the tree crew showed up and the first tree cut down was a dogwood that measured 11 1/2" in diameter and that is pictured in photo 3. It made it easier to get the trucks in to grind up the trees. Then a series of fir trees along the property line were cut down. Then in the back corner a 32 inch in diameter maple was cut down. It was about eight to ten feet off the back corner, no where near the house. But in total, 23 trees were cut down, not counting bushes. He measured the diameters of the 23 trees and they measured over 28 feet in diameter. That is a lot of trees.

Mr. Clark grew up in North Carolina and people say you live in New Jersey and they think of what they see when they fly into Newark Airport and he says, no he lives in a beautiful town with lots trees. Someday he is going to have to change that and say he lives in a town that has been clear cut and there are no more trees anymore. He knows Cresskill has a lot of beautiful old trees and one of the problems is some of them are getting old and they break and they fall down and people say they don't want to pay for a new tree, they are not going to live long enough to see that. The people that owned his house before him, planted two little maple trees and now they are 80 years old and he had to take one down because it was rotten and broken, but the other one is still alive and healthy. Sometimes we need to plant trees for future generations.

There is another house about four houses down the street, a wider lot like this, that is on the market now for about \$1.5 million. To be saying that maybe we should be asking for a tree or two or more than token bushes is not unrealistic. He is not asking the town to go along and plant maple trees in front of everybody's house. He knows the taxpayers don't want that. But when you are spending the cost to build this house is probably going to be six or seven hundred thousand dollars, to say they should plant two maple or oak trees, he is not designating the kind of trees, each time we build a new house, then we are starting to build a base for the future of Cresskill.

That is why he is here. He expects the Board to follow the rules of the law and whether his variance request is granted, he wants the Board to do what is consistent. Some day he may sell his house or want to change his house and he expects to be treated the same way, with the consistently following the laws as far as the zoning. So, whether it is right or wrong to have a side entering driveway, he can't answer that. All he is asking the Board is to be consistent in the way they measure the law. What he is saying is the trees are what make Cresskill beautiful. We are losing too many. Next to the Buchak's had a beautiful one that got knocked down in the last storm and the town had to come out in the middle of the night and cut it up, but we are clear-cutting the town and it is time to start thinking and start planning. He would like to see the town pass an ordinance that requires that anytime we build a new house, they have to plant two trees. They can always come back and say that it is a hardship and explain why they can't afford it or explain why there are other trees, but he just sees so many lots where they clear-cut the whole lot.

Mr. Schuster stated that they do see landscaping plans that people come in with for the planting of trees. There was a fee charged for the cutting down of trees, which is supposed to be used for replenishing the tree stock in the borough. That ordinance is already in effect. Mr. Clark stated that he is just looking at what is happening on either side of him and expecting what is going to happen in front of him. He is taking a very narrow view of this.

Mayor Romeo noted that his point if very well taken and he agrees with him. Things have changed since the last time Mr. Clark has been in. They have passed a tree ordinance. There are certain restrictions where they can't cut. But what happens is, when you are building, and you are in the footprint, you are allowed to cut those trees down. The town has made it so that they have to put a buffer in the back with trees and on the side. So, things have changed since the last time Mr. Clark was here.

Mayor Romeo stated that they are adding on to Bryan School. They have cut down trees in the front. They had a couple go in the other day, and the woman was in tears, speaking to school officials and asking why they were cutting down these trees and they were mature maples. They explained to them that this is where the parking lot is going to go and they had no choice but to cut them down. But they are going to plant trees in other places. She basically didn't want to hear it and they explained to her that they need a place for the teachers to park. Her answer was, let them park on Bryan field. That goes to

the other extreme. Mr. Clark agreed that that is unreasonable. He would argue that one or two of the trees needed to go because of the plot, but most of them didn't need to go. What he is not seeing is a landscaping plan. Maybe it is on another sheet or gets approved later. But, based on what he has seen next door, and he appreciates what the Board does and he hasn't been here in a year-and-a-half, he is not trying to make the Board's lives difficult. Mayor Romeo stated that his point is well taken.

Mayor Romeo stated that they will be taking up the landscaping and he is sure that he will be more than willing to put in some trees. Mr. Ulshoefer was instrumental in putting in the tree ordinance and now we do have one. Now we have to weigh progress along with saving the environment. One of the problems is, and he is seeing it on his block, is the older streets are just completely changing. They are trying to enforce it now. There is a new property maintenance officer and a new Building Inspector. The builders are complying. He thinks that this gentleman here will be putting trees because he is going to be living there. He agrees with Mr. Clark. They are walking a fine line. It is your property and you are allowed to do what you want with it. We are not really supposed to tell you what to do. The time to do it is now, before everything is done. They want to be good neighbors, he hopes.

Ms. Lisa Lopes, 48 Churchill Road, Cresskill, wished to be heard and sworn in by Mr. Schuster. Ms. Lopes stated that she lives behind Mr. Patel to the right and he took down the most beautiful maple tree she ever saw in her life. Not only was it so beautiful, but it made her yard like an oasis. All of these maples that are coming down and the privacy that has been taken away, she is now staring at what is about to be torn down, and thank goodness, because it looks terrible at the top, but she doesn't want to be looking at the driveway and the cars and why don't we get approval for these trees to be taken down and why aren't the neighbors asked about it. Nobody had any say in that. She never got a letter in the mail saying that Mr. Patel was taking down all 23 trees, because he also took down the trees behind her neighbor's yard and now she is staring at a container. It is not right that they have to be the victims to this. He took away all her privacy. She has no privacy at all. She has a beautiful home and a beautiful pool, she has lived there 58 years, and now she is looking at his yard and the people across the street. She has no privacy anymore. Why isn't there something instilled for this to be asked by the surrounding neighbors prior to this happening.

Mayor Romeo stated that the zoning laws that are on the books are for the buildings and the additions to the property. They are not for the plants because it is their property and he is entitled to cut them down. What we are going to ask him to do is put up some sort of bushes or something in the back that will grow up. Mayor Romeo spoke to Mr. Patel and stated that he was going to be a good neighbor, hopefully, and plant some bushes there or something so that they can't see you and you can't see them. What the Board is asking for is, the neighbors are there already, so he is going to be a welcome citizen, but we want the least amount of impact on the people in the neighborhood. He is going to need to plant some bushes in the back to give them some privacy and we will put that in the approval.

Ms. Heena Patel, 105 Westervelt Place, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Ms. Patel stated that they did have a tree on the side and they were all grown up to the top and there was no privacy at all. They are trying to plant the Christmas trees all around so everybody gets the privacy, and they will have a fence. Ms. Lopes wanted to know why the neighbors weren't asked first. There was nothing wrong with the maple tree. It didn't affect anything. Mayor Romeo stated that the answer is, it is not your property, it is their property.

Ms. Lopes noted that she cried when the tree was taken town. She stated the town isn't quaint anymore. Everybody is coming in with these monstrosities and taking away the beauty of Cresskill. Mr. Schuster stated that you can only restrict so much.

Mr. Morgan closed the meeting to the public.

Mr. Hitesh Patel, 105 Westervelt Place, Cresskill, was sworn in by Mr. Schuster. Mr. Patel stated that he has lived for 16 years in Cresskill. His kids are all grown and going to college. He wants to stay in Cresskill and that is the reason he bought this house. He wanted to build his house his way with the side garage. The only thing he forgot is the 10 feet on the side yard for the driveway. So, he only is asking for

8 feet of a variance. He is going to live in that house and he wanted to build the house his own way. He likes his privacy and his garage is his privacy and that is the reason he wants it.

Mr. Ulshoefer stated that the buffer zone is part of the ordinance in this town. He asked if Mr. Patel was going to do it. He drives around all the time and he will find out when he is finished whether or not he did it. Mayor Romeo stated that we will put it in writing in the approval.

Councilwoman Tsigounis asked Mr. Azzolina if the site plan showed the trees being removed. Mr. Azzolina stated that the site plan shows them as being preserved. One of the trees was in the buffer zone, a 24" tree in the northeast corner, was shown as being preserved as well as a 30" tree on the other side of the shed, that was supposed to be preserved. The question is why those trees were removed. Mr. Patel stated that he got permits in July for all the trees that he marked with white paint and was told that if the trees were bigger than a certain size, he didn't need a permit for that. Councilwoman Tsigounis noted that she doesn't think he would have been allowed to take down those trees in the buffer zone so there must be a disconnect somewhere. Mr. Patel noted that it was before he submitted the plan.

Councilwoman Tsigounis stated she doubts anybody would allow him to take down trees in a buffer zone, an area where you are not permitted to take trees down. There is an issue. The other issue is the driveway. A two-foot variance, where 10 feet is required, because he is going to live in it, is not a justification. We can't allow everybody to do what they want. That is why the zoning was enacted. To protect the neighbors as well as the owner. You have to have consideration for what they are doing. She doesn't see a reason to have that kind of situation on a brand-new house. She can't understand why he would put himself in the position of asking for that variance when it is a brand-new house and you can design anything you want. Mr. Patel stated that he wanted a side-loading garage, right or left. Councilwoman Tsigounis explained that the zoning exists to have certain space around their house where there is grass and breathing room. Now they are covering it with macadam up to two feet off the property line. He is creating this situation on a brand-new house.

Mr. Gennaro stated that right now he has a huge paved area on that same side, like a horseshoe kind of driveway. There is no garage, so they are taking away a lot of that in the front yard and, yes, they are pushing it towards the back. That is the situation now and he thinks this is even better because now they have garages. Councilwoman Tsigounis asked if he read the engineer's report about the backout. Mr. Gennaro said he did, and their engineer did as well. They think it is sufficient. In a normal parking lot, you have 24 feet to back out. This is a one-family house, so he thinks it is working. He understands the Board's issue. Councilwoman Tsigounis stated that the Board's issue is that we have a code and we have a brand-new lot, brand new house and there is a zoning code. There is plenty of room because it is not an undersized lot. Mr. Gennaro noted the problem is if they did the side and if he had to leave the 10 feet plus the 25 or whatever it is, this house would not happen. It would have to be a different design.

Mr. Gennaro noted that this is Mr. Patel's desire to have a side-loading garage. That is what they designed. They missed the distance from the side-yard. Mr. Schuster said as a technical matter, it is not on the zoning schedule on the plan either. Mr. Gennaro noted that it was designed by the engineer and agreed that it is not because it was missed. They found out through the zoning officer that it was a variance. Mr. Schuster said we will need a revised plan.

Mayor Romeo addressed Mr. Patel. He is hearing stuff that bothers him a little bit. He didn't realize that he cut down trees that he wasn't supposed. That aggravates him. The neighbors have opinions on things that he agrees with. Since he is moving into their neighborhood, while he can't make him accommodate their wishes, he can tell him what his feelings are. Mr. Patel needs to put up a big buffer zone in the back to accommodate the neighbors in the back, at least 6-8 feet high of evergreens. The side-loading garage is not going to go, because he is only two feet off. He already moved it away from the house on the other side to accommodate that neighbor. Now he is on the other side and rather than get into that, it is going to be a front-loading garage. This eliminates the variance on the side. The bushes that are going to be planted around the house aren't going to be two-feet high, but bushes that he is going to be proud of and look like you lived in the house three to four years. We go through this every

week. The builders kind of get this after a while because they want to do business here. You are a homeowner, and in his opinion, that is what he would do.

Mrs. Patel stated that they will plant two hardwood trees with a big canopy and bushes in the back, seven-eight feet high with a fence six feet high. Will change plans to have a front-loading driveway.

Councilwoman Tsigounis made a motion to approve the application with the provisions stated regarding the trees and the front-loading garage. Mr. Rummel seconded the motion. Mr. Schuster noted that the conditions were changing the plans to a front-loading garage, two hardwood trees in either corner 10-12 feet high, six-foot-high fence and seven-eight-foot high arborvitae along the rear property line, thereby eliminating the variance. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Mandelbaum, Mr. Ulshoefer, Mr. Malone, and Mr. Rummel all voted yes. Motion approved.

Other Business

None.

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

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

The next four regular Planning Board meetings are scheduled for January 8, January 22, February 12, and February 26, 2019, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary