

## **MINUTES**

### **CRESSKILL PLANNING BOARD**

**MAY 28, 2019**

Mr. Morgan opened the meeting at 7:31 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call:

Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Durakis, Mr. Mandelbaum, Mr. Ulshoefer, Mr. Malone and Mr. Rummel. Also present was Mr. Schuster, Planning Board Attorney, and Mr. Azzolina, Borough Engineer.

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Mr. Ulshoefer made a motion to approve the minutes of the May 14, 2019, meeting, seconded by Mr. Mandelbaum. All present were in favor of the motion. Motion approved.

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#### **Correspondence**

Application for Soil Erosion and Sediment Control Plan Certification for Allen Street Community Parking Facility for the Borough of Cresskill. File.

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#### **Subdivision Committee**

Mr. Morgan reported that a revised application for Cresskill Tavern, Application #1543, was received on May 17, 2019. It is currently under review.

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#### **Report from the Borough Engineer's Office**

Mr. Azzolina stated that they are currently reviewing the Cresskill Tavern application for completeness. He hopes to report on it at the next meeting.

Mr. Azzolina noted Application #1550M, which is the Kim subdivision and site plan, that the plan as presented is substantially complete. He recommends that the Board can schedule a hearing. This is 292 Magnolia. No one was present for this application.

The other application that they are currently reviewing is the Zerrenner Application #1540M on 35 Westervelt. He made arrangements to meet with the applicant's engineer next Monday to review the missing items on that application. He should be able to report on that application at the next meeting as well.

Mr. Azzolina has received the deed for the Lumaj Builders at 26 Cresskill Avenue. The second deed is for the dedication to the Borough. From the engineering side, everything is okay with respect to the two deeds. One is for the subdivision that creates the two lots. The second deed is for the dedication to the municipality. The meets and bounds portion of those documents are correct. He will defer to the attorney

relative to the legal content. They gave the borough 2 ½ feet. The road is 45 feet where 50 feet is required. They are required to dedicate one-half of their side of the street, which is 2 ½ feet.

Mr. Azzolina also prepared a report for the Public Hearing for Application #1551, 150 11<sup>th</sup> Street.

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### **Old Business**

None.

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Resolution for Application #1549, 31 Allen Street, 31 Allen Street, LLC, was introduced by Mr. Ulshoefer and seconded by Mr. Durakis with the following revisions. It needs to stipulate that a minimum of three shade trees will be added and a six-foot fence will be erected along the rear property line. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Durakis, Mr. Mandelbaum, Mr. Ulshoefer, and Mr. Malone all voted yes as amended. Councilwoman Tsigounis was absent. Motion approved. The original shall become a permanent part of these minutes.

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### **Public Hearing – Application #1551, 150 11<sup>th</sup> Street**

Mr. Mark Ruffolo was present on behalf of the applicant, Lumaj Homes, LLC. They are here tonight for site plan approval requiring three variances. The first variance is building coverage. The requirement is 20% and they are proposing 22.2%. The second variance is minimal other side side yard which is a requirement of 20 feet, and they are proposing 15.7 feet. The final variance is combined side yard which has a requirement of 35 feet, and they are proposing 30.8 feet. They are working off of an existing structure. It is new construction but the structure that was there before consisted of approximately 1,300 square foot single-story home. They are proposing a two-story home and square footage of 3,075.

He called his first witness, Mr. Sean McClellan, the engineer. Mr. Schuster swore him in. Mr. McClellan, 101 West Street, Hillsdale, NJ, has testified before this Board many times before. His license is presently in good standing. He was accepted as an expert in the aspect of engineering for today's hearing. Mr. McClellan stated that what exists on the property currently is a single-family dwelling with a detached garage. The slope of the property goes from the rear to the front mildly. The existing house as it sits now is non-conforming in side yard. The side yard is 14.7 feet where 15 feet is required. The lot is deficient in area. They have 9,200 square feet where 10,000 square feet is required. Also, lot frontage they have 80 feet where 100 feet is required. They are proposing to put a new house on this lot. They will meet the side yards of 15 feet but will be short by approximately 4.2 feet for the combined side yards. They will have 30.8 where 35 is required. They will also be asking for a variance for building coverage of 22.2% where 20% is allowed.

On the site, to access the dwelling, they will have a front load driveway into a garage. To maintain the runoff for the proposed dwelling, they will have a 1,000-gallon seepage pit in the front yard. The current house as it sits today, does not have any kind of drainage. All the roof leaders just ran to the ground and ran off site so there is no drainage containment on site. The seepage pit on the proposed house will be an improvement to the drainage situation.

For impervious coverage, they removed the requirements for that. They are at 31.2% where 31.9 is allowed. They meet the FAR and meet the height, front and rear setbacks. They are all conforming. Other than it being an undersized lot, everything is normal.

Mayor Romeo asked if they were going to have a new basement. Mr. McClellan stated that they are going to have a new basement.

Mr. Uri Rapaport, 15 Franklin Street, Tenafly, NJ, was sworn in by Mr. Schuster. He has testified before this Board many times before. His license in architecture is presently in good standing. He was accepted as an expert in the area of architecture. Mr. Rapaport designed the project. He noted that they are doing a brand-new single-family home replacing the existing one. Since the lot is a little bit undersized, they need the variances that the engineer mentioned previously. He wanted to emphasize that they are not asking to give any larger home than is allowed because the FAR is exactly what they are doing. The house is exactly what the ordinance calls for.

Mr. Rapaport distributed a printout that summarizes what they are doing. This diagram of the house was marked as Exhibit E1. This graphic showed what they are proposing. The red shape showed what the building envelope would be if they would have to keep the combined side yards of 35 feet. They proposed to do 15 and 15, slightly over, so you can see that the garage goes slightly over. The second floor does not go over the garage at that point. The second floor is smaller than the first floor. They are not asking for something outrageous based on the width of the lot which is 80 feet wide. He thinks it is the right proportion. They are building a house that is the right size according to the FAR and zoning. If they made it narrower, it would be deeper so it would take away from the backyard. If you want to keep the open space, anyway you go, it is just a different shape.

Mr. Rapaport stated that he has done projects like this in town. He has been before the Board here many times when he has had narrow lots. This has an attached garage.

Mr. Ulshoefer asked what the bump out was on the one side of the house. Mr. Rapaport noted that it is the fireplace. The fireplace is allowed to be in the side yard as long as it is no bigger than five feet by two feet. It goes all the way down to the foundation. Mr. Ulshoefer stated that it is his understanding that if it goes all the way down it is supposed to count. In the past, if you had a freestanding one, in other words if it was two feet off the ground or something like that, then it doesn't count. If this goes all the way down, unless it has changed, it is supposed to count. Mr. Azzolina doesn't think there was ever a mention in the code relative to cantilever. He believes that the majority that this Board sees happen to be cantilever type construction. Mr. Ulshoefer noted that when his addition was built, his fireplace had to be cantilevered, otherwise it would have counted. He is speaking from his experience. Mr. Rapaport stated that in the zoning ordinance, there is no difference between a cantilever fireplace and one that starts from the foundation. That is how he always does it. He has done many homes like this.

Mr. Ulshoefer said that he was going to check on that. Mr. Rapaport said that he has been here many times and this is how he does it and it is never a problem. Mr. Azzolina doesn't believe it is a problem. He is not aware of the cantilever language that Mr. Ulshoefer is citing. It may have changed and asked Mr. Ulshoefer when he did his addition. Mr. Ulshoefer said he did it about 15 years ago. Mr. Azzolina noted that perhaps the code was misinterpreted at that time. Mr. Ulshoefer stated that when he went before the Board he was going to get turned down unless it was cantilevered. Mr. Azzolina noted that fireplaces are listed as a permitted projection and he is not recalling any language of cantilever vs. at the ground. He is sure it is not a big deal for the applicant to amend the plans to incorporate a cantilever type of design if it were to be recognized as a further projection or they could ask for the variance. Mr. Rapaport stated that they were here many times before with the same type of design and it was never an issue.

Mr. Schuster asked if Lumaj was the record owner or the contract purchaser. Mr. Ruffolo stated that he is the record owner.

Mr. Morgan opened the meeting to the public.

Mr. John Brennan, 145 10<sup>th</sup> Street, Cresskill, wished to be heard and was sworn in by Mr. Schuster. He lives behind the subject property. He wanted a little bit of understanding of what they are proposing for the development of the back yard. There is quite a bit of overgrowth and what is going to happen with the trees and the fencing. He believes that the fence is on his yard. He would like to hear a little bit more about it. Mr. Rapaport noted that the minimum required setback for the backyard is 30 feet and they are

proposing to have 41.9 feet. The setback is much larger than the minimum required. As far as the fence, if the fence belongs to the neighbor, he will respect it and any damage should be repaired. If they decide to do a new fence, that would be down the road. He is not sure how much backyard Mr. Brennan has but the distance between the houses would be 41.9 feet plus whatever Mr. Brennan has in the back of his house.

Mrs. Mary Brennan, 145 10<sup>th</sup> Street, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mrs. Brennan stated that 3,000 feet seems very larger to her. Especially for an undersized lot. She feels as though for them looking into that house, it is going to be just massive looking at this huge structure just dead on. She asked if it was higher than code. Mr. Rapaport noted that they cannot be higher than the ordinance allows, which is 28 feet in Cresskill. The highest point of the house cannot be more than 28 feet. The size of the house which they have the zoning for FAR (Floor Area Ratio) and whatever they propose is what is allowed. It is a percentage of the size of the lot. They have to go by the total lot for the size of the house. They are not proposing to build anything bigger than is allowed. Mrs. Brennan asked if it is not bigger, how come they are going over on the footage of the house. Mr. Rapaport stated that what they are asking for is two different things. Building coverage, which is also percentage of the lot, and FAR which is the total of the floors. The first floor is not the same as the second floor, which is a little bit smaller, but the footprint is the same. Mrs. Brennan understood that building coverage and FAR are two different measurements. They are two different calculations for the same property. The second floor is smaller than the first floor so the house will not look that big.

Mr. Richard Min, 164 11<sup>th</sup> Street, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Mr. Min asked if the side yard variances be only on one side or would it be symmetrical, or would the house be more towards one side of the property. Mr. Rapaport noted that the side yards have to be 15 feet, so they have the 15 feet on both sides, and they are not making them any smaller than the minimum required. In Cresskill, there is another requirement, which is the combined side yards of 35 feet together that they do not have because the lot is narrow. The minimum of 15 feet they meet on both sides.

Mr. Morgan closed the meeting to the public.

Mayor Romeo asked where the previous owners were now. They have not been in the house for at least six to eight months. The condition of the property is absolutely horrendous. Mayor Romeo noted that the builder is going to clean the property up. There will be a new house with new landscaping. He will put a fence in and new bushes in and he is going to clean up both sides. He doesn't know why that happened. They were obviously elderly people in the house. This will clean all of that up. The house was a ranch and now it will be a two-story house. It will conform to the two-story houses that are in the area. They will do a good job to make sure the neighbors in the back are happy because they were living there before they built this.

Mr. Brennan noted that they have dealt with this for a number of years because of the overgrowth in terms of weeds. He wanted to know who was going to be responsible for what is going to come on to his property because of the cutting of the trees and the clean-up. Mr. Rapaport stated that there is an ordinance in Cresskill for tree removal and replacement. To build a new house they will have to comply with the permit for removal and mitigate. Mr. McClellan noted that the only trees that will be removed are in the vicinity of the house. None of them are near the rear by the neighbor's property. Mr. Brennan stated that if they leave it in the current condition, it is not going to help him. There is a lot of overgrowth in the back. Mr. Rapaport stated that they will clean up the property in order to sell it. You can look at other properties that Mr. Lumaj has done in the Cresskill. Mr. Lumaj noted that the property will be super clean.

Mr. Schuster asked the Brennans if they would agree to let the builders come on to their property to clean up anything that is needed. The Brennans agreed to that. Mr. Brennan thinks it is to their benefit to clean it up to sell it.

Mr. Morgan asked if they had any problem with Mr. Azzolina's report. Mr. McClellan stated that they can comply with all the requests in his report and will make the appropriate revisions. Mr. Azzolina asked

about the height of the basement and if it was in fact a nine-foot ceiling in the basement. He asked if the engineer has been in the existing home. The engineer has not. He would recommend, based on experience in the vicinity, that if they go below the existing basement floor elevation, they may run into a ground water condition. He recommends that they do some investigation as to what that groundwater elevation is and dig some test pits to determine that and take the appropriate steps. Mr. Lumaj stated that he will do that and make the appropriate adjustments as necessary.

Mr. Ulshoefer requested that in the back they put two more trees like oaks or maples or things of that nature. He noticed that the other trees towards the back are five feet or six feet. He knows they do a great job of putting trees back. Mr. Lumaj said he can put trees in.

Mr. Ulshoefer made a motion to approve, seconded by Mr. Calder, with the stipulation that two trees will be added in the back yard. On Roll Call: Mayor Romeo, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Durakis, Mr. Mandelbaum, and Mr. Ulshoefer voted yes. Mr. Malone abstained. Mr. Rummel voted yes. Motion approved.

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### **New Business**

Mr. Suk San Kang was present with a Letter of Introduction from Mr. Bob Rusch, dated May 6, 2019. They are taking over the nail salon at 22A Union Avenue. They took over on May 1. It is the same business with new owners and is being called Nard Nailworks. Everything is the same. They wish to take down the awning. Mr. Malone made a motion to approve, seconded by Mr. Calder. All present were in favor. Motion approved. Approval memo given to the Building Department. Approval letter sent to Mr. Suk San Kang, with copies to Ms. Francesca Maragliano, Mr. Bob Rusch, the Fire Department, Police Department and the Health Department.

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### **Other Business**

None.

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

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Motion was made by Mr. Durakis to adjourn the meeting at 8:21 PM, seconded by Mr. Mandelbaum. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for June 11, June 25, July 9, and July 23, 2019, at 7:50 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary