

## **MINUTES**

### **CRESSKILL PLANNING BOARD**

**SEPTEMBER 22, 2020**

Mr. Ulshoefer opened the meeting at 7:33 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call:

Mayor Romeo, Councilman Kaplan (via phone), Ms. Bauer, Mr. Malone, Mr. Mandelbaum, Mr. Rummel, Ms. Tsigounis, Mr. Ulshoefer and Mr. Sutura. Also present were Mr. Stamos, Planning Board Attorney, and Mr. Azzolina, Borough Engineer.

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Ms. Tsigounis made a motion to approve the minutes of the September 8, 2020, meeting, seconded by Ms. Bauer. All present were in favor of the motion. Motion approved.

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### **Correspondence**

Letter of Introduction from Mr. Bob Rusch, Construction Official, dated September 18, 2020, sending Mr. Lumaj to this Board for approval. He would like to construct a new single-family dwelling at 154 7<sup>th</sup> Street. Application #1562 was received on September 18, 2020. It is currently under review.

Letter of Introduction from Mr. Bob Rusch, Construction Official, dated September 9, 2020, sending Mrs. Layne to this Board for approval. She would like to open a women's retail store at 12 Union Avenue. Mrs. Layne was present. She explained that she will sell women's clothing. It is a small space, 120 square feet. It is next to the upholstery shop. It is going to be called L&V. Ms. Tsigounis made a motion to approve, seconded by Mr. Mandelbaum. All present were in favor. Motion approved. An approval letter was sent to Mrs. Layne, with copies to Ms. Francesca Maragliano, Mr. Bob Rusch, the Police Department, the Fire Department and the Health Department.

Letter of Introduction from Mr. Bob Rusch, Construction Official, dated September 4, 2020, sending Ms. Song to this Board for Approval. She would like to open an acupuncture office in her home at 133 Hillside Avenue. This use is permitted in that zone as per The Code of the Borough of Cresskill 275-8 E. Mr. Song was present. It is between Westervelt and where Hillside curves towards downtown. They just moved in in June. Mayor Romeo stated that it is a permitted use. Ms. Tsigounis asked if they were going to have a sign. Mr. Song noted that they don't need one if it is not permitted. Mayor Romeo stated that it would be more like a shingle like a lawyer. He said that if he wanted to put something up, bring it down to the Building Department to make sure that it is apropos for that area and not offensive to anybody and it shouldn't be any problem doing it.

Mr. Song also noted that they are permitted to use 50% of the first floor and they have a separate entrance on the side of the house that they would like to use. The also have a garage that is a separate structure with a studio behind it. It also has a separate entrance. He would like to use that space as well. Does he need a separate permit for that? Mr. Stamos stated that he would have to give the Building Department the floor plan and what they propose to do so they can determine if they are compliant with the standards. Mr. Song noted that he did give the paperwork to the Building Department and he received this letter telling him to come here for approval from the Board. Mayor Romeo asked if he told them he was going to have it in the house or garage or both. Mr. Song said he was having it in both. The garage has heat, A/C, and electric. There is no restroom, but there is a restroom in the house that they will be able to use. The garage space is further back off the street where it is quieter, relaxing and a few trees. Mr. Stamos noted that it

doesn't sound unreasonable but the Zoning Official should look at it. Mayor Romeo told Mr. Song to go to Mr. Rusch and tell him the Mayor would like him to go look at it and if it is OK, it shouldn't be a problem.

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### **Subdivision Committee**

Ms. Tsigounis reported that Application #1562, 154 7<sup>th</sup> Street, Sokol Lumaj, was received on September 18, 2020, and is currently under review. Mr. Lumaj noted that it is a big lot and it won't need any variances.

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

Mr. Azzolina noted that his report is Application #1561, 91 Hillside Avenue, Adem Duraku. He sees that the applicants are here represented by counsel. He thinks they want to make a brief presentation of the proposed single-family site plan, and he thinks that would be useful for the Board's information.

Mr. Mark Madaio, with offices on Legion Drive in Bergenfield was present and already gave Mr. Stamos copies of the notices, both in the newspaper and the mailed notices, all of which are timely. They are also accompanied with the submission of the affidavit of service. So, the record is clear, 91 Hillside is also known as Block 76, Lot 55. They are here for a single-family home that requires no variances whatsoever. They are here for what Cresskill refers to as residential site plan approval. There are no variances. The property is a significantly oversized property. The house complies with the FAR at about 24% coverage. The house could actually be quite significantly larger because the FAR is 30%.

The house has gone through a couple of different designs. The goal here was to present a home requiring no variances and having the garage turned so that they don't have a larger garage facing forward and be the least obtrusive on the neighbors. He noted that the garage has been an issue in the past because it was too close to the side yard line. That has been corrected. Now the garage is fully conforming. The height is fully conforming. Again, it is a significant home, but he doesn't want to get trapped in the idea that anybody should guess that the home is too big, because, again, the house could actually be 6% points larger and still comply with the FAR and still be a completely legal structure.

Mr. Madaio has with him this evening Mr. Hubschman, the engineer, who will mark the plans as Exhibit A1, and he will talk a little about the property. He also has the project architect, Ray Virgona, so that you can see elevations and what the project looks like and what the home looks like. Mayor Romeo noted that the neighbors are here because they were upset about the old plans, but they haven't seen the new plans. Now they will get to see the changes that were made.

Mr. Michael Hubschman was sworn in by Mr. Stamos. Mr. Hubschman has been here many times before and was accepted as an expert in the field of engineering. Mr. Hubschman wanted to start by correcting Mr. Madaio. He told him that the FAR was 24%, but that was the impervious coverage. The actual FAR is 17.2%. So, you are almost one-half the required FAR. Mr. Madaio stated that just so everybody understands, this house could be almost twice this big, and still comply with the FAR.

Mr. Hubschman stated that it is an existing vacant lot, 100-foot frontage, 298 feet deep. It is a fairly level piece, which slopes from the rear towards the front. It's been cleared for quite some time. They are proposing a single-family house. They were here about a year ago with a side yard that was 12 or 10 feet. They redesigned the house to have a 15-foot side yard on the left and 20.4 feet on the right. They have a 35-foot total side yard. This now complies with that. They lined up the house with the two adjoining houses in the front. They are proposing the dwelling driveway with a turn-around in the front and a pool in the rear. Everything is pretty much at grade. There are no walls proposed. The only cut is for the basement.

Mr. Madaio asked about a proposed drainage system. Of course, that would be subject to the engineer. Mr. Hubschman stated that this is typical, where they would use 2" of rain over the footprint, and in this case they also included the driveway, and there are two seepage pits that are capable of storing that 2" of

runoff. Everything grades toward the front and the driveway is curved so there is no runoff on any of the adjoining properties. Mr. Madaio noted that if the town engineer requires different seepage pits, different runoff controls, he would say they have plenty of land space to accommodate that. Mr. Hubschman agrees. He said they do test pits prior to installing seepage pits. They test the soil. The soil is always very good in this area, so they are not expecting anything out of the ordinary, but if they do, they might have to add a seepage pit if the soil doesn't perk as well as expected.

Mr. Madaio noted that one of the design requirements is that they do have that on-site turn-around so that people are not backing out onto Hillside. Mr. Hubschman agreed. He explained that they have a side-load garage and they have a turn-around on site so they do a K-turn so they are not backing all the way out because the house is set back quite a bit from Hillside.

This property used to have a house on it, so it has gas, water, sewer, and has all the basic site plan requirements. Mr. Hubschman stated that it has all the utilities available on site. He also noted that it is level and designed the house and driveway to fit right into the grade so there is no real filling required. The house is a conforming height.

Mr. Madaio called his next witness, Mr. Ray Virgona, the architect. Mr. Virgona was sworn in by Mr. Stamos. Mr. Virgona is a licensed architect in New Jersey and has been licensed for over 45 years. He has appeared before this Board before. He was accepted as an expert in the field of architecture. Mr. Virgona was retained to design the single-family residence which is to be located on this property. This set of drawings was marked as Exhibit A2.

Mr. Virgona explained that on the upper right portion of A2, you will see the first floor plan, which consists of a living room, dining room, kitchen, library, three-car garage, in addition to a powder room and some closets. The first floor is 2,411 square feet of living space. The garage is about 735 square feet. The plan on the left is second floor plan. It is an L-shaped house. The house has five bedrooms on the second floor, and five bathrooms. In addition to that there is laundry room. The second floor living area is about 2,307 square feet. The total of the house is about 4,800 square feet of living space, plus the three-car garage.

On the lower right corner of the drawing you see the front elevation. The height of the house is 28 feet from the average grade to the highest point of the roof, which conforms to the height requirement. It is going to be a combination of Hardy Plank siding (cement siding) and stone. There are some accent roofs with metal. It is kind of a country style with a gambrel type roof which is visible on the drawing. To the left are the other elevations. The first one to the left in the center of the drawing is the left side where you see the three garage doors. The rear elevation has a similar style to the front with a gambrel roof. The final elevation is the right side. (phone rings) He thinks it is a well-designed home and it fits in very well with the neighborhood.

Mr. Madaio reminded the Board that they are here for residential site plan approval. It is not an architectural review process, but they are happy, always, to try to make it better if they can. The site plan issues are what the Board is really here to look at under the ordinance.

Ms. Bauer asked what the exterior of the house was. Mr. Virgona noted that it is a combination of stone and horizontal cement siding called Hardy Plank.

Mr. Madaio noted, for the record, that there is a basement also. That doesn't alter the fact that the house complies with the FAR.

A neighbor that was present asked if Cresskill permits clearing the lot. Mayor Romeo stated that he will be replacing some of the trees. He thinks most of the trees that are there now are staying because they are on the outer perimeter, but we will ask him to put some more trees in and make sure they are going to comply. Mr. Azzolina would like Mr. Hubschman to testify about the tree removal. Mr. Hubschman noted that on sheet 2 of Exhibit A1, it shows the trees that are to be removed. It shows about 32 trees that are being removed, and they will be replaced with extensive landscaping with this type of development. Mr. Ulshoefer asked what they were going to replace these 32 trees with. Mr. Hubschman noted that they haven't developed a landscaping plan. It is usually one for one. They usually try to replace the 32 with 32.

There will be more evergreen trees around the perimeter and they will put deciduous trees and shade trees in the front and along the rear. The neighbors wanted the trees pointed out on the plan for them to clearly see what trees they are talking about. Mr. Madaio noted that they can't take down trees that are not on their property.

The spruces are quite old and should be removed. Mr. Madaio wanted to make sure these conversations get on the record. Their intention is to remove trees as designated and replace as per the ordinance on this fully permitted structure. If there happens to be one on the line and there is a dispute about it, they will deal with that dispute as they do every time someone builds a house, or every time a tree falls and one neighbor says it's your tree and the other neighbor says, no it's your tree. That's what happens. Their intention is to take down exactly what they have noted and replace them in accordance with the ordinance. He also wants to be clear that he hasn't represented to anyone that is going to live there. That's not a zoning criteria in any way. You can't decide applications based on who the resident is, or if it is sold for spec or if it's built for spec, or if it is built for my family or if its built for my mom, none of those things are valid zoning considerations. Of course, in this case, it means even less, because they don't need any variances. So, there really are no "zoning considerations" at all. They are here solely for a residential site plan approval to construct a fully conforming home. That's it.

Mr. Walter Clarke, 108 Westervelt Place, Cresskill. He had the house to left of him torn down and rebuilt. He had the house to the right of him torn down and rebuilt. And now the one across the street. For five years he has lived next to construction projects. The first two had generators. The third one did have a power pole, which helps with the noise, so if you could put up a power pole, he would appreciate that. The one to the left of him, basically clear cut except for a couple little ones left in the back. The token little bushes they put in the front are junk. The one to the right of him, was basically clear cut and replaced with little bushes in the front. He didn't grow up here. He has only lived here 30 years. The one across the street they clear cut and cut down trees the town told them they were not allowed to. They took down a 30" diameter maple in the back corner and had the neighbors in the back in here crying. Mr. Madaio stated that that has nothing to do with them.

Mr. Clarke said he is looking at the site plan and he found only two without "Xs" on the back lot. Mr. Madaio again stated, let's not make any mistake, they are going to take down an awful lot of trees and they are going to replace them exactly in compliance with the ordinance. They are not going to take down any trees they are not allowed to take down. Mr. Clarke is not sure what the ordinance says but the house across the street put trees in the backyard, but in the front, they put a few little bushes and it is a joke. We used to have a town with lots of trees that kept it cool, made Cresskill beautiful, and this is not a cheap little bungalow. This is a 5,000 square foot house. Let's make sure we get a couple of oaks or maples that are going give this town back its beauty. He is not challenging them, he is challenging the Borough and the ordinance, but let's make Cresskill beautiful for the people that are moving in now that are going to be here for the next 50 years.

Mr. Madaio cannot assure him what trees will be put in the front, or even if they want large maple trees in front. They are personal decisions for people who build and own homes. He happens to have several trees in front. Some of his neighbors prefer not to have any trees in front. But their activity will always be in compliance with the ordinances on this fully conforming structure.

Ms. Tsigounis stated that, with all due respect, she thanks Mr. Clarke for those comments. It is important for the Board to police what they have done. They should look into it and make sure they learn not to make the mistakes that have been made in the past. The Board should look at what's been done and make sure it is in compliance. Mr. Madaio has no problem with that and no problem with suggestions of the engineer. There is nothing in it for them to make it worse. It doesn't help them to build a 5,000 square foot home and then chinse out on a couple of trees. There is nothing there for them. However, he doesn't want to lock into a plan, he is not obligated to lock into a plan. This application has been pending for a very long time. They have rendered it fully conforming so that it is fully conforming. Of course, they are anxious to build what works for them and what the town likes.

Mayor Romeo stated that they want trees in the front yard. Mr. Ulshoefer agreed and said not something that is knee high. He can't tell whether or not they are taking them down just to take them down. Mr.

Madaio stated that they might be. Understand that there is no proof level that they have to demonstrate we need to take them down. Their intention is to build this fully conforming structure, that they have gone through many pains to render fully conforming and they want it nice and they will do whatever is necessary under the ordinance.

Ms. Tsigounis stated that there is some kind of a buffer, so you have pay attention to that. You can't just clear cut the entire site and replace it with new trees. They don't have the integrity of the old trees. There is something about the older trees that they have been there that the newer trees just are not surviving. Make sure that there is a buffer. You should not be taking down trees unless they are going to be compromised by the building footprint and the construction. That is her point of view and she thinks they should take that to heart. They are professionals and the Board is looking out for the town here and you don't just cut down trees because you want to clear cut the land. Mr. Madaio stated that there is nobody that wants to do that, but again, they will 100% comply with the ordinance. It is absolutely their intention. Ms. Tsigounis wanted them to comply with common sense. You have to do what is right.

One of the neighbors asked what the ordinance says and if they are allowed to clear cut. Ms. Tsigounis noted that they should not be able to clear cut. That is why the ordinance was drafted. Because we had situations that the builders were just clear cutting the lots to make it convenient.

Mayor Romeo said that they are going to satisfy this with bushes, screening and some trees. It is a beautiful house they are going to have. Mr. Mandelbaum doesn't think that is sufficient enough. They haven't given an answer. Mr. Madaio stated that the answer is they will work with the Shade Tree Commission and the engineer. They will tell them what they want, they will tell them what to put in, and they will tell them what they can take down, as long as it doesn't compromise their ability to have a pool, a backyard and construct the structure and the driveway and the garage. Mr. Mandelbaum stated that they still haven't answered the question. Mr. Madaio noted that they are going to do what the Shade Tree Commission wants.

Ms. Tsigounis thinks what they are going to do is they are not going to compromise the health of a tree if their construction is going to interfere with the roots. Those trees can be taken down. Mayor Romeo asked Mr. Clark if the cutting of these trees impact his property at all. Mr. Clark said that his property only touches his property on the corner. Mayor Romeo noted that normally what happens is they try to keep the integrity of the border around with replacing trees or bushes for privacy and they take a select few deciduous trees and they put them somewhere on the property. He wants his whole backyard open because he wants a pool and patio. On the other hand, the neighbors' houses have had trees and they don't them to be gone. There has to be some sort of compromise. One neighbor wants the trees taken down because it has destroyed his property. The other neighbor wants the trees to stay.

Mr. Madaio stated that all he can say is that he hears what they are saying, they will be reasonable. They have a Borough Engineer that has to approve and issue their permits and make sure that what they are doing is in accordance with the Borough laws and he is hearing that the Board wants them to do better than what the laws require and they intend to do that. He is not locking in to "this gentlemen wants some trees in front so he has to do that." Their goal is to build as nicely as they can and replace what they take down. That is what they want to do, and they want to cooperate. He wants them to understand that this is fully conforming structure, you have ordinances, they are going to comply with all of them, plus the common sense part of it that he thinks the Board is making them do.

The spruces on the right side of the house are right along the side of the house. Mr. Hubschman noted that they should remove the trees and plant a new row of evergreens there. On the right side, the neighbor is OK with just removing the trees. In the back they will put a buffer.

Mayor Romeo noted that they worked on the tree ordinance for three years and it is still not right. The reason is that half the people in the town want every tree cut down. They don't want to rake leaves anymore, they don't want them falling on the house. He can't tell you how many times people just cut down trees because they just don't want them in the yard anymore. The trees now in the town are mature and are now starting to fall over during storms. They used to have a tree bank. They can't give the trees away. Nobody will take them anymore. He doesn't know why. He understands where they are coming from. Westervelt

was all tree lined, as was Hillside. He thinks they are trustworthy people and will work with the neighbors to get this resolved. He said that they are still working on the tree ordinance.

Mr. Madaio wanted to make sure he was clear. They are not going to then be negotiating with the Shade Tree Committee. They are going to do what was said here. They are going to comply with the ordinance and do better than comply with the ordinance. They are going to be mindful of the neighbor that doesn't want trees and wants them to violate that buffer, which technically they are not allowed to do, but he guesses they are going to do. And then they have a neighbor that doesn't want them to violate the buffer and they are going to not do that. And if there is a tree that is questionable, they will figure it out. Their intention is to have an open backyard on their 300-foot-deep backyard, a swimming pool, the house and it is their intention to do that.

Mr. Rummel made a motion to approve, seconded by Mr. Malone. All present were in favor. Motion approved.

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### **Old Business**

None.

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### **New Business**

None.

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### **Other Business**

Mr. Stamos announced that the 1 Union Avenue Application #1559, Cresskill 1 Union Avenue, LLC/152 Piermont Road, c/o F. Cavuto & Co., was officially carried to this meeting from the August 25, 2020, meeting. This application is now being carried to October 27, 2020, with no further notice.

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

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Motion was made by Mr. Rummel to adjourn the meeting at 8:17 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 October 13, October 27, November 10, and November 24, 2020, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary