

# MINUTES

## CRESSKILL PLANNING BOARD

JANUARY 8, 2019

Mayor Romeo opened the meeting at 7:30 PM and announced the requirements of the Open Public Meetings Act had been fulfilled. He stated that the first order of business was the election of officers for the year 2019. Mr. Durakis nominated Mr. Dean Morgan for Chairman. The nomination was seconded by Mr. Ulshoefer. All present were in favor. Mr. Durakis nominated Mr. Ulshoefer for Vice Chairman and Ms. Bauer for Secretary. Mr. Calder seconded the nomination. All present were in favor. Mr. Durakis made a motion to keep Mr. Schuster as the Planning Board Attorney. Councilwoman Tsigounis seconded the motion. All present were in favor. All nominations and motions were approved.

The meeting was turned over to Mr. Morgan.

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

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Mr. Ulshoefer made a motion to approve the minutes of the December 11, 2018, meeting, seconded by Mr. Calder. All present were in favor of the motion. Motion approved.

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### Correspondence

Copy of letter from the County of Bergen, Department of Planning & Engineering, dated December 10, 2018, to ZimZum, Inc. 477 11<sup>th</sup> Street, stating that Bergen County Subdivision Approval will not be required for Block 137, Lot 329-335. Mr. Azzolina stated that this is for the Pershing Place subdivision. File.

Application for Soil Erosion and Sediment Control Plan Certification for 182 Madison Avenue, Joe and Louann Funciello, Application #1544. File.

Application for Soil Erosion and Sediment Control Plan Certification for 26 Cresskill Avenue, Lumaj Builders LLC, Application #1536M. File.

Resolution of the Borough of Cresskill stating "Be it resolved that Councilwoman Simone Tsigounis be appointed as the Class III Planning Board Member for the term ending December 31, 2019." File.

Resolution of the Borough of Cresskill stating "Be it resolved, as provided in Revised Statutes 40:55D-56, that the Borough Clerk is hereby designated as the official to make and issue certificates as to whether or not subdivisions have been approved by the Planning Board or Governing Body; and

"Be it further resolved that in the absence of the Borough Clerk, the Deputy Borough Clerk is hereby designated as such official." File.

Ms. Leanna DeSheplo was present with no Letter of Introduction received. She is a yoga instructor and wishes to occupy a space at 210 Knickerbocker Road as a yoga studio. Ms. DeSheplo has been working at a yoga studio in River Edge for the past six years and she has decided to go out on her own and open up her own space. She found a space at 210 Knickerbocker Road. She needs approval from the Planning Board. There was a dentist in there. She believes the space is about 1,200 square feet on the first floor. There is a parking lot in the back. Mr. Mandelbaum made a motion to approve, seconded by Mr. Calder. All present were in favor. Motion approved. Letter sent to Ms. DeSheplo stating the Board's approval, with copies to Mr. Rusch, Ms. Maragliano, the Fire Department, the Police Department and the Board of Health.

Mr. Jack Tabibian from Jack's Lobster Shack was present regarding outdoor seating at his restaurant. He distributed some diagrams of what he wanted to do, how many chairs and how many tables. He also wants a vestibule for the winter to keep the cold from coming in the front door. He is requesting 12 tables with 24 chairs and six umbrellas. The frontage is 46 feet. Building to sidewalk is 108". Two tables next to each other would be 50" allowing for 58" for pedestrians to walk by. There is a light pole between his building and the Urgimed next door. It is right on the building line. He doesn't know what is required for a pedestrian walk, but in the other towns he has dealt with, they require three feet. He has more than four feet. It is for the warm weather and he doesn't see himself putting it out before May. Even if you have decent weather before May, he may put two, maybe four, maybe six chairs out for people who really want to sit out there. The sun really hits across the street more. It will be colder around 4:00-5:00. He sees himself putting it out after May 1. They would also have to hire more people, so he wouldn't want to put it out early. He would hire the extra help for the warm weather. He would leave it out probably until the end of September. The tables will be folding tables so at night they will be taken in.

There will be 12 chairs and six tables on one side of the building and 12 chairs and six tables on the other side of the building. Councilwoman Tsigounis stated that they are mostly in the shade most of the day. She is concerned with the umbrellas and the safety. Mr. Schuster noted that they would extend past the table. Mr. Tabibian noted that they don't extend out beyond the table. He doesn't see anybody really needing the umbrellas, so they would probably be folded unless somebody wants it open. They would go between two tables. It would cover two tables when it is open. The tables are 24" x 30". Mr. Schuster is worried about whether there is adequate room. The base of the umbrella is 12" x 12" and they are going between the tables.

Mr. Tabibian asked what is allowed for pedestrian walkway. He stated that 36" is what is needed for wheelchair access to a restroom or anywhere. This is giving more than four feet. Mr. Schuster asked about the additional parking spots that would be needed. Mr. Tabibian stated that one of the good things about this location is that the parking lot in the back is really available more at night when his business will be busy. Mr. Schuster doesn't think he has enough parking. Councilwoman Tsigounis noted that that is not a reason. Mayor Romeo stated that nobody has enough parking. Councilwoman Tsigounis feels that people will find a space to park and a lot of people do take out and this is a nice addition. She thinks that if they find this to be congested, they will adjust it so his customers are comfortable.

Mr. Tabibian noted that two things happen when you have outdoor seating. Instead of sitting inside they are going to sit outside. The business is the same. It doesn't always mean that the outdoor seating is going to bring more business. People just prefer to eat outside instead of inside. Mr. Schuster doesn't believe that with 12 more tables there isn't going to be more business. Mr. Mandelbaum believes that if he does do more business, people will find a place to park.

Mayor Romeo stated that we are about to get a new parking lot on Allen Street. It is about to go out to bid which will be 88 more spots. That should help with the parking.

Mr. Tabibian explained the vestibule. The vestibule comes out three feet in front of the door, but the door swings out on the side of the vestibule. If they are going to allow him to do the seating which is going to stick out four feet, this only is going to stick out three feet, with the door opening on the side. Nobody is going to walk into the door when somebody is entering or exiting. Mayor Romeo explained that the

vestibule has to be forest green like all the awnings. Mr. Tabibian agreed. The vestibule is temporary. They will put it out probably in early December through March.

Mayor Romeo thinks we should give it a try. If there are problems, we can revisit it. Mr. Tabibian doesn't even think they are going to need the umbrellas but would like to give it a try. If it doesn't work, he can get rid of them. Mayor Romeo said that if the tables are six and six and it becomes a problem, maybe he can cut it down to four and four. Mr. Tabibian would like to do the vestibule right away. It takes about two weeks to construct. The vestibule will be attached to the building and the legs get screwed into the concrete, so it doesn't fly away. They do it flush so when they take it out, nobody trips over it. It is temporary from December to March. The company that makes it comes and installs it and then takes it away and stores it. It is wind protection and has a roof.

Mr. Morgan made a motion to give it a try, seconded by Mr. Calder. All present were in favor. Motion approved. Letter sent to Mr. Tabibian stating the Board's approval, with the stipulation that this can be revisited if the space is not adequate for the amount of tables and seats.

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### **Subdivision Committee**

Councilwoman Tsigounis noted that we received a revised drawing for Application #1545, 105 Westervelt Place, Hitesh & Heena Patel, the Public Hearing from the last meeting. It was distributed to the members. Also, revised plans for Application #1536M, 26 Cresskill Avenue, Lumaj Builders, was received January 8, 2019, and this is the subject for tonight's Public Hearing.

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

Mr. Azzolina reported that he hasn't reviewed the revised plan for Westervelt completely. They did revise the orientation of the garage, but there were other issues that were discussed at length by the Board with respect to replacement trees, etc. None of that is shown on the plans. He didn't get a chance to review it completely vs. the resolution so he will report back at the next meeting.

Mr. Azzolina also prepared a report for tonight's Pubic Hearing for 26 Cresskill Avenue.

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### **Old Business**

None.

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Resolution for Application #1545, 105 Westervelt Pace, Hitesh & Heena Patel, was introduced by Mr. Mandelbaum and seconded by Mr. Calder. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Mandelbaum, Mr. Ushoefer, Mr. Malone and Mr. Rummel all voted yes. Motion approved. The original resolution shall become a permanent part of these minutes.

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### **Public Hearing – Application #1545 – 105 Westervelt Place**

Mr. Mark Madaio, Legion Drive, Bergenfield, was present representing the applicant Lumaj Builders for 26 Cresskill Avenue. Mr. Madaio noted that this property was previously 26 Cresskill Avenue and it is now two lots. Skipping past the history, they now have two lots on this property, one is 70% oversized and the

other one is 80% oversized. They are here for site plan review with regards to the houses. The subdivision has already been granted on these, what are now, oversized lots. He will try to keep it brief. He does have a witness which he would like to call.

Mr. Sean McClellan, 101 West Street, Hillsdale, NJ, was sworn in by Mr. Schuster. He is a licensed engineer in the State of New Jersey. He has appeared before this Board many times before. His license is presently in good standing. Mr. McClellan was accepted for the purposes of tonight's hearing as an expert in engineering.

Mr. Madaio asked Mr. McClellan if he was the engineer for the subject property. He wanted to know if he was accurate when he stated that one of the newly created lots was in excess of 70% oversized and one of the newly created lots is in excess of 80% oversized. Mr. McClellan agreed to both. Mr. Madaio noted that their FAR, while permitted to be 30% is in fact 24.9% and 24.6%, respectively. The building heights completely conform. Building coverage is permitted to be 20% and their building coverages are 12.2% and 12.7%, indicating just over one-half the permitted building coverage and that there is not an overuse of the site. Mr. McClellan agreed to all of this. Impervious coverage is permitted to be 30%, their impervious coverage is 23...

Mr. Schuster interrupted Mr. Madaio and stated that, as a point of information, if he is not mistaken, the last time they were in here, they were here for a three-lot subdivision, that was denied. He doesn't recall approving the two-lot subdivision. Mr. Azzolina agreed that they did not receive approval for the two-lot subdivision. He is not here just for site plan approval. Mr. Azzolina noted that they are not here for just site plan approval, they are also here for subdivision approval, which he called about yesterday to obtain the subdivision plot.

Mr. Madaio asked if Mr. Azzolina had the updated subdivision plot and he said yes. Getting back to the subdivision, Mr. Madaio noted that they created two oversized lots, instead of the three lots they previously proposed. Those lots are, as he indicated previously, 70%-80% oversized. They front on Cresskill Avenue. They both could contain a single-family residence. They are both served by public utilities just as the prior house was. They both create a buildable building envelope in the event the subdivision is granted. With regard to the proposed subdivision, there are no variances required as a result of the subdivision. The applicant meets all the requirements of the subdivision ordinance. They received a subdivision review letter dated January 7, 2019 and there is no reason they can't comply with the requirements or comments with regards to the subdivision. Mr. McClellan agreed with all statements of Mr. Madaio.

Mr. Madaio had no further questions of Mr. McClellan with regards to the subdivision. It is an oversized, completely conforming subdivision and they believe they presented all of the necessary proofs. Mr. Schuster asked if they believe these lots are consistent with the other lots in the area. Mr. Madaio stated that the lots are oversized, which means they are more than consistent with the ordinance. They think what was consistent with the area was three, but that was denied. Mr. Schuster asked again if Mr. Madaio thought the lots are consistent with the other lots in the area. Mr. Madaio noted that they are much larger than the area. They don't have to be consistent with the area. They are fully conforming lots and grossly oversized.

Mr. Madaio noted that, with regards to the plat that is in front of them, as they talked about each of the lots being grossly oversized, the FAR is, in fact, 5% less than is permitted. The building coverage is something just over one-half of what is permitted indicating that the home, despite the very large lots, is still a reasonably sized home. The impervious coverage is permitted to be 30% and they are at approximately 23%. With regards to the site plan approval process, there is nothing here that interferes or does not meet the requirements of site plan. Mr. McClellan agreed with all of these statements and stated that everything is conforming. Mr. Madaio also noted that they have available water, sewer, electric and all of those things that served the house which was here before. The plans indicate 1,000-gallon seepage pits. In the event they apply for building permits and the Building Department or Borough Engineer believes that larger seepage pits are required, they would have to accommodate them. Mr. McClellan agreed but stated that as they currently are, they are overdesigned already.

Mr. Madaio noted that the Borough Engineer prepared a January 7, 2019, report letter addressing both the minor subdivision and site plan issues. He asked Mr. McClellan if there were any site plan issues in the letter which they cannot accommodate or meet. Mr. McClellan stated that there is nothing they cannot comply with. Mr. Madaio stated that they are actually less height than is permitted. They are under and all of the proposed yard setbacks are, in fact, well in excess of what is required. There are no variances. It is in complete compliance with the site plan ordinance. Mr. McClellan agreed with all statements.

Mr. Morgan opened the meeting to the public. Ms. Janet Tessaro, 9 Cottage Place, Cresskill, wished to be heard and was sworn in by Mr. Schuster. Ms. Tessaro asked if the houses were going to be two separate houses or if they were going to share a common wall. She was told that they were going to be two separate houses. Mr. Madaio noted that these houses are actually 53 feet apart, almost double what the 15-foot side yards would give you.

Mr. Morgan closed the meeting to the public.

Mr. Ulshoefer stated that he sees that they are going to plant nine trees by the curb line. He asked if they could plant additional trees since it is a large lot. Mr. Madaio noted that that isn't an issue and asked how many more trees he would like to see. Mr. Madaio doesn't know if he is required to do anything but asked what the Board would like to see. Mr. Ulshoefer would like to see more along the back if that is physically possible. Mr. Madaio said that would be a buffer along the railroad tracks and that would be at the client's discretion. Mr. Ulshoefer stated that with the ordinance, you are supposed to have a buffer zone in the back that you plant trees in and you can't take them down. You should have a buffer zone in the back according to the ordinance. Mr. Madaio said that if it is required by ordinance, there is no question that they will do it. Mr. Ulshoefer thinks it will make the neighborhood look better. Mr. Madaio said that if it is required, they will do it and if it is not required, they will likely do it. They hadn't hoped for such a big yard. They are going to fence it anyway. Mr. Azzolina noted that there already is a six-foot line of fence along that property line.

Mr. Calder made a motion to approve, seconded by Mr. Ulshoefer. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Morgan, Ms. Bauer, Mr. Calder, Mr. Durakis, Mr. Mandelbaum, Mr. Ulshoefer and Mr. Malone all voted yes. Motion approved.

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#### **New Business**

None.

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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. Calder to adjourn the meeting at 8:15 PM, seconded by Mr. Ulshoefer. All present were in favor. Motion approved.

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

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary