

MINUTES

CRESSKILL PLANNING BOARD

JANUARY 12, 2021

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 2021. Mayor Romeo stated that Mr. Morgan resigned as of today. Mayor Romeo nominated Mr. Robert Ulshoefer for Chairman and Ms. Bobbi Bauer for Secretary. Ms. Tsigounis nominated Mr. Rummel for Vice Chairman. Mr. Mandelbaum seconded the nominations. All present were in favor. Ms. Tsigounis made a motion to keep Mr. Stamos as the Planning Board Attorney and Ms. Petillo as the recording Secretary. Mr. Mandelbaum seconded the motion. All present were in favor. All nominations and motions were approved.

The meeting was turned over to Mr. Ulshoefer.

Members present at roll call: Mayor Romeo, Councilman Kaplan, Ms. Bauer, Mr. Mandelbaum, Mr. Rummel, Ms. Tsigounis, Mr. Ulshoefer and Mr. Sutera. Also present were Mr. Stamos, Board Attorney and Mr. Azzolina, Borough Engineer.

Ms. Tsigounis made a motion to approve the minutes of the December 22, 2020, meeting, seconded by Ms. Bauer. All present were in favor of the motion. Motion approved.

Correspondence

Letter from Montclair Law Associates to Ms. Maragliano and Mr. Anzevino regarding 235 County Road. Mr. Stephen Aspero represents Sanasun, LLC and its Managing Member, Masoud Majorradi. The LLC is the owner of the residential property commonly known as 235 County Road that consists of two lots, Lot 14 in Block 168, that contains Mr. Majarradi's home and Lot 15 in Block 71, an unimproved narrow 15' x 332' x 30' lot that is contiguous to Lot 14 to its west. Lot 15 fails to meet a number of the Borough's bulk requirements as to lot size and given its 30' width is not functional or buildable lot. Mr. Mojarradi would like to consolidate Lot 15 and Lot 14 by a simple deed conveyance. Attached is the proposed form of Deed. Please allow me to mention that this deed conveyance would be an exception to N.J.S.A. 40:55D-7 wherein the term "subdivision" is defined to exclude the "(4) consolidation of existing lots by deed or other recorded instrument." Please confirm that the Borough has no objections to this lot consolidation at your earliest convenience.

Mayor Romeo has an objection to that. He doesn't know why you would do that. Mr. Stamos thinks they might be looking for access to Elmore Place. Mayor Romeo explained that to the left of the nursing home, there is a strip of land that is about 30 feet wide that goes to the property in the front where the old historic house is. He basically has a flag piece of property. Many years ago, that piece of property was declared a historic building. It was built during the Revolutionary War. They can't do anything with it. Every few years somebody buys it and comes back in with a new way of trying to subdivide the property. His new angle may be that this one strip is a lot of square footage. Right now he doesn't have enough to build two houses on County, but if you consolidate this into one property to make it 20,000 square feet, then he can come back and say he doesn't have the frontage but he does have the square footage. He's not going to get it anyway because it is a historic house. He would like Mr. Stamos to call and ask them why they are doing this.

Mr. Stamos noted that they can't disturb the historic building. There may even be a restriction to subdividing the land off of that. He would have to do some research. If they just transferred it into common ownership,

that would merge the properties. It is called a Doctrine of Merger. Mayor Romeo would like to know why they would do this.

Public Notice from PK Environmental regarding the NJDEP Transition Area Waiver (TAW) Averaging Plan. The NJDEP Freshwater Wetlands (FWW) Transition Area Waiver (TAW) Averaging Plan, Block 83, Lots 90-109, Cresskill Borough, Applicant/Owner – Borough of Cresskill. “This letter provides you with legal notification that the Borough of Cresskill has submitted an application to the NJDEP Division of Land Resource Protection (DLRP) for a Freshwater Wetlands (FWW) Transition Area Waiver (TAW) Averaging Plan, as part of the proposed affordable housing project on this property. Enclosed is a copy of the “Wetlands Transition Area Waiver Summary Plan” prepared by Azzolina & Feury Engineering Inc. which depicts the proposed project limits, and the location of on-site wetlands and 50-foot wetland buffers.

“The complete NJDEP TAW application can be reviewed at the Cresskill Borough Clerk’s office, or by appointment at the NJDEP’s Trenton office. In addition, an electronic copy of the initial application can be provided via an OPRA request by contacting <https://www.nj.gov/dep/opra/opraform.html> from the NJDEP’s Trenton office. The NJDEP welcomes comments and any information that you may provide concerning the proposed development and site. Please submit your written comments within 45 calendar days of receiving this letter.” This letter was sent to property owners within 200 feet of Block 83, Lots 90-109.

Application for Soil Erosion and Sediment Control Plan Certification for 150 10th Street, Ron York. No application is on file yet. File.

Resolution from the Borough of Cresskill – 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.

Resolution from the Borough of Cresskill – Be It Resolved that Council Member Leslie Kaplan be appointed as the Class III Planning Board Member for the term ending December 31, 2021.

Subdivision Committee

Nothing to report.

Report from the Borough Engineer’s Office

Nothing to report.

Old Business

No one has heard anything from 1 Union Avenue. Mr. Stamos will contact Mr. Madaio and find out the status.

New Business

None.

Other Business

None.

Mr. Ulshoefer opened the meeting to the public. Mr. Garipian, 86 East Madison, Cresskill, wished to be heard. He lives across the street from where the transition area waiver is being proposed. He has significant concerns about the disturbance to the wetlands. As previously stated, this transitional area should not be touched or modified. He agrees with that as well as not touching or disturbing wetlands. They are vital to our eco-system as well as to prevent flooding, which East Madison has flooded on various occasions. He has security camera footage of East Madison flooding on July 31, 2019. It is a problem where water goes onto their properties and down their driveways and floods their houses. There is significant water in the area and the wetlands help. He has concerns specifically about the flooding of East Madison, the flooding of his property that happens around that area if the wetlands gets disturbed, as well as building a building that has impervious coverage and pushing all that water back down to the street, back down to their houses, as well as the water table underneath his house. The water table is a significant problem in that area. His sump pumps are running constantly to get the water out. He knew it was an issue going into it, that is why he has two sump pumps that are running.

Mayor Romeo noted that it is the lowest point in the whole town. Mr. Garipian knows that, and you are trying to put a building there and get rid of wetlands in order to fulfill some need that is required for affordable housing units. He feels that you can add a lot more to various other locations where there is no flooding. He is also worried about the deer and other wildlife that is in that area as well because they are going to be disturbing the wetlands. He has some other points about his property specifically.

Mayor Romeo stated that they are not building on the wetlands. Mr. Garipian stated that the wetlands are being disturbed in order for the building to be built. Mayor Romeo explained that it is not in the way he thinks it is being disturbed. We are building on the exact two pieces of property where there were two single family houses that were there for about 75 years. If you look at the property, right on the corner, there are two driveways there. They were for two single family houses. They are building only on that footprint. Anything further up, nothing else is being touched there. They are just building on the two 50 x 100 lots that were there for the last 70 years. Kings bought that for additional parking and then about 20-25 years ago, the town traded with them and made it into a COAH zone so that some day we would be able to build on it. The State came in and said okay you can have your requirement and put it there. The two 50 x 100 lots that are on the corner is where it is going to be, and it goes around the corner towards the post office.

Mr. Azzolina agreed that they are not disturbing any wetland area. They are disturbing what they call the transition area or buffer. The wetlands were classified by DEP earlier in 2020. It was determined that the resource value of the wetlands was intermediate for the majority of the wetlands on site. That requires a 50-foot transition area or buffer. Under the rules, you can average it out, as long as you compensate for the disturbance within the transition area or buffer, not within the wetlands. We are not disturbing any wetlands. This is simply the area adjacent to the wetlands that are on the wooded portion of the tract as the Mayor described. We are disturbing approximately 2,300 square feet of that area, and they are compensating for that at a 1 to 1 ratio by providing to the DEP a conservation easement across the eastern most portion of the property. These are all permissible actions under the current DEP regulations that they are working under.

Mr. Garipian said that the buffer is being disturbed. He wanted to know what the buffer area does to the water when the flooding occurs. Have there been any studies of what the buffer area does to flooding on East Madison. Mr. Azzolina noted that they have not done any studies. This building, unlike Mr. Garipian's house is going to be built on a slab. There is no basement component. They are not going to be subjected to the groundwater levels that do exist within the area. The drainage from the roof of the structure will go into a recharged retention system with an overflow into the municipal storm drain. Both Mr. Garipian and Mr. Berberoglu, being upstream, will not be impacted negatively by this project.

Mr. Mesih Berberoglu, 90 East Madison, Cresskill, wished to be heard. He has always been a proponent of their community and whatever needs to be done for the betterment of the community. The thing that he has an issue with, aside from getting too close to that manmade ditch and the street flooding and all of that is they were never told about the second building. At the last meeting, he was specifically told that there was just going to be four units for developmentally challenged individuals and then all of sudden they get something in the mail about a multi-floor apartment building. Mayor Romeo said it was a two-story building, but not even the whole building is two stories. There are two apartments upstairs that COAH made them put for families to go along with the unit of four or five apartments for the developmentally challenged. It's not an apartment building.

Mr. Azzolina explained that it is one building. One portion of it is one-story that has the group home component. The two story portion has separate apartments for independent living units for developmentally disabled people that do not need to be in a group home setting. There is a single entrance on Washington.

Mr. Berberoglu noted that they were under the impression that it was going to be four units and now they get this plan, and it is something else. Is there going to be another surprise down the road. Mayor Romeo stated that they were surprised too because COAH came back in and said we need you to put two, two-bedroom apartments and a three-bedroom apartment. Mr. Berberoglu asked if they think it is good to put mentally challenged people with affordable housing people and co-exist. Mayor Romeo noted that they think it is a good idea, so they mandated us to do it. He explained that these are adults 40-50 years old that are working. They work at different jobs. Mr. Berberoglu noted that he has a nephew with Asperger's that needs constant supervision and constant monitoring and care. Mayor Romeo explained that the State comes in and they place the people that are appropriate in there. It is not going to be someone who needs care. They are going to be adults that are functioning and independent.

Mr. Shamron Awwal, 66 East Madison, Cresskill, wished to be heard. He also has family that has special needs. He just thinks the location isn't good for them. It is an intersection with a lot of commercial traffic. There are trucks that make a lot of noise at night. They take wide turns. Eventually there is someone that is going to go out in the street. You are putting them in a high traffic intersection. Noise at night that is going to drive them nuts. High rates of speed. Mayor Romeo didn't disagree with them but two of them work as Kings right now. They are adults and are self-sufficient. Mr. Berberoglu noted that it is for the betterment of them all but the last thing we want to see is a fatality. Mr. Awwal said that it is just a bad location with that intersection.

Mayor Romeo stated that you have to understand something with COAH. They don't ask you they tell you. They come into the town and tell you your time is up now. You have to come forward and give us a housing plan. The second thing they do is go to Google Earth and they take a shot of the whole town and look at all the open areas where you can build apartments. They bring you the list and say to you why shouldn't we allow apartments here. For example, up on McGrath Drive, there are two lots, 40,000 square feet each, back-to-back, for a total of 80,000 square feet, in the middle of four to five-million-dollar houses. They came to us and said they have the first location for us, and it is 40,000 square feet and you can put in about 30 units here. So, try to imagine putting in an apartment building in the middle of that neighborhood. Then what you do is you have to have the foresight to give them alternative places to build these things. You come up with plans like passing an ordinance where you can add a second story in the middle of town so that you can put a couple of COAH apartments there. You let the Daibes project go through and then you say to them okay you got 26 apartments and we need three for COAH. There are COAH apartments all over town that you don't know about. It was all done by design so that you don't have what they have in Dumont where D'Angelo's was. There was one acre on one side of the street and six-and-a-half acres on the other side of the street. They let them build townhouses and then they put a three-story apartment building on the other side of the street, and they are putting all the COAH people in that one building. Across the street is a pool, and on the other side is all the poor people. We chose not to do it that way. We chose to do it so that it would have the least impact on the personality of this town. You don't even know where the COAH apartments are. They are all over the town.

So, they came to us and said, by the way you have the zone here that was done by the previous administration. He did the right thing. They bought the property and made it zoned for COAH. They wanted

us to put up a three-story apartment building. We negotiated that down to a two-story home where you wouldn't have this impact on the neighborhood. There is a piece of property on Palisades Avenue that is 6 ½ acres that could hold 300 apartments. We took that out of the COAH and we put in the Crestron property, because that is only 1.8 acres. But that is only an overlay zone. It doesn't mean they are going to build there. What happens is, the more you fight them, the more they come back and the more they find places for you to build. The restrictions are so great and the amounts they want from you are so great that they literally can ruin your town. You see what the Mayor of Englewood Cliffs did. If you are reading anything in the paper, that guy now is getting 300 units where he probably could have gotten away with 40-50.

So, the best thing you can do is the path of least resistance and try to do the right thing for everybody. They knew this area was there. They came to us with a plan for a three-story building and we cut it back down to something like this. We also have to worry about the impact on the schools. If there were twelve apartments there, that could be another 25 kids. Right now we don't want anymore. It's a little crowded now. They were going to put COAH at Willow Run. There was probably going to be 110 apartments there. We cut that down to 37 condominium units. That didn't even give us 14 children. We are always trying to be ahead of them. We can't satisfy everybody, but there is a method. We have them pushed off until 2025. But they are coming back again, and this is going to be a credit towards that, so we don't have to have as many. The other thing is it doesn't cost anything. The builder at Hamrah's had to give us the money to build it. Hamrah's was another place that they wanted to put a three or four-story apartment building. We are doing the best that we can, but we are forced by COAH to do this. They are running out of court mandates.

Mayor Romeo is sympathetic. This has been going on for a while. We have been keeping ahead of them for the past 20 years and you don't even know there is COAH in town. They have taken other places, like Englewood Cliffs now with 300-400 units, and it's going to kill them. That is why it was done this way. It wasn't done to hurt anybody. That was zoned that way back in 1995. Ms. Tsigounis stated that we asked the very same questions that they are asking tonight.

Mr. Berberoglu understands what Mayor Romeo said and what's in his heart. That is not in question here. It is just that the question he had is the water. That is his problem. He knows the obligation to the State with COAH is perfectly clear. His question is the water. Mayor Romeo noted that they declared that wetlands. But Mr. Azzolina will tell you that it is really not wetlands. The water that is coming through there, when it comes through there, is from the drainage pipe up at the mortgage building. That is a self-made thing done about 40 years ago. That was self-made. That should have never been done that way. When they came back in to redo everything, they declared that wetlands. There should be no problem with the drainage at all because we are nowhere near where that is. Mayor Romeo thinks they are going to be very pleased with the building.

Mr. Berberoglu asked about the new development behind Dunkin Donuts. He wanted to know if that was all for sale. Mayor Romeo said that they are all condominiums and are for sale. There is not affordable housing there. They gave us money to put the affordable housing somewhere else. Mr. Berberoglu asked if the flip side of COAH is if we don't meet our obligation, can a builder come in and do whatever he wants. Mayor Romeo explained that COAH supersedes all zoning. If a builder comes in and wants to knock down a house and knows you don't have enough COAH, he can go to Trenton and ask if they can build an apartment building with however many units of COAH, Trenton can say yes, and you can't do anything about it. You need to keep one step ahead of them and you do not want to argue with them. They have the upper hand.

Mayor Romeo thinks they will be happy with the building. It will be on a slab so it will not have an issue with water. Mr. Azzolina noted that there will be the group home which will have four bedrooms, then you have three independent units on the first floor, one two-bedroom unit, and two one-bedroom units. On the second floor you have a three-bedroom apartment for families and a two-bedroom apartment for families. Parking would be in the senior citizen parking lot behind the unit. They are both Borough owned properties.

Mr. Garipian asked if there is going to be another meeting or will they be able to see the renderings. Mayor Romeo said there will not be another meeting because there is no need to. They can come down and look at the rendering as soon as they get it. It will not change now. It is locked into what it is for 30 years.

Motion was made by Mr. Mandelbaum to adjourn the meeting at 8:10 PM, seconded by Ms. Tsigounis. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for January 26, February 9, February 23, and March 9, 2021 at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary