

MINUTES

CRESSKILL PLANNING BOARD

FEBRUARY 22, 2022

Mr. Ulshoefer opened the meeting at 7:30 PM and announced the requirements of the Open Public Meetings Act had been fulfilled.

Members present at roll call:

Mayor Romeo, Mr. Ulshoefer, Mr. Malone, Mr. Rummel, Mr. Sutura, Ms. Tsigounis and Ms. Furio. Ms. Bauer arrived at 7:35 PM. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Dean Stamos, Board Attorney.

Mr. Rummel made a motion to approve the minutes of the February 8, 2022, meeting, seconded by Ms. Furio. All present were in favor of the motion. Motion approved.

Correspondence

Application for Soil Erosion and Sediment Control Plan Certification for 54 Willis Avenue, Application #1576, Paylex II Projects, LLC. File.

Letter of Introduction from Mr. Bob Rusch, dated January 5, 2022, sending Mr. Tomer Hershkowitz to this Board for approval. He is seeking a driveway waiver as per 218-E(1)(c)) at 22 Center Street. The driveway to side property line required is 10 feet. The proposed is six feet. The waiver required is four feet. Mr. Hershkowitz was present. He presented the Board with a letter from his neighbor, Mr. Hector Camilleri, giving his consent for Mr. Hershkowitz to expand his driveway towards his property at 16 Center Street. Mr. Hershkowitz stated that he has a very old driveway, and he has a problem with draining and water coming into the house. His plan is to extend the driveway towards the neighbor and do more pitch to the street. Mr. Azzolina explained that widening the driveway is not going to solve the drainage problem. The gradient between the garage and the curb line is very flat so there is not a whole lot you can do to change that. It is not really going to address that problem. It is going to give them more parking area. Mr. Hershkowitz stated that that is one of the reasons, of course. They are trying to do something with the pitch. Whenever they have rain there is water coming in. Mr. Azzolina suggests that they make an application to replace the depressed curb opening when they are doing the widening to redo the depressed curb to get a full two-inch reveal and that will keep most of the water out of the driveway. That would be the possible solution to his problem during most rainfall events. If you get the crazy rainstorms that we have had recently, it is not going to control that probably, but it will handle the rain that you get most of the time with the two-inch reveal. That would be his suggestion.

Ms. Tsigounis stated that she would feel better if the Board approves it contingent on them doing that, because we do understand what he is trying to do, and she approves of the fact that they need to have two cars parked. She doesn't know if they would be willing to do that contingent on the Board's approval, what the engineer suggested, so that it eliminates the problem and doesn't compound the problem. Mayor Romeo asked how they would depress the curb. Mr. Azzolina explained that they would have to remove the existing curb and rebuild it with a two-inch reveal. Typically, they are constructed in 10-foot sections, so, depending on exactly where his driveway falls in relation to the next expansion joint in the curb, you would hire a mason contractor and he would put the new curb in. Somebody from his office or the DPW would inspect the forms before he pours it and that would solve most of his drainage issues. Mr. Hershkowitz was agreeable to that. A letter of approval with the contingency was sent to Mr. Hershkowitz with copies to Ms. Francesca Maragliano and Mr. Bob Rusch, Construction Official.

Subdivision Committee

Ms. Tsigounis had nothing to report.

Report from the Borough Engineer's Office

Mr. Azzolina reported that subdivision Application #1578M, 33 Westervelt, and site plan Application #1581, 35 Westervelt, which he received the site plan and architectural drawings for, are substantially complete as presented. He recommends that the Board schedule the Public Hearing on the applications. He notes that the attorney is present. Mr. Madaio noted that the second meeting in March is good for him if that is acceptable. The Board is agreeable to that date. Mr. Madaio was informed that the hearing date for these applications will be March 22, 2022.

Mr. Azzolina issued a report on Application #1573, 39 Center Street, 39 Center Street LLC, which is scheduled for a Public Hearing tonight.

Old Business

None.

Resolution for Application #1567M, 268 E. Madison Avenue, Jane Reilly, was introduced by Ms. Tsigounis and seconded by Mr. Rummel. Mr. Stamos summarized the resolution noting that this application started out asking for a three-lot subdivision with a flag lot and after hearing from the public, they came back and still wanted three lots. They still had a plethora of the public voice opinions. After everything we reviewed in terms of the application, Mr. Azzolina's report, three different sets of plans, we did end up approving a two-lot conforming subdivision with no variances. They agreed that they wouldn't seek any variances and that they would come back for site plan approval when it is time to construct the new homes. They have to comply with the usual conditions. They can file it by deed because it became a minor subdivision. They will meet all the requirements of Mr. Azzolina's report, inspections and provide the escrows that are required. On Roll Call: Mayor Romeo, Mr. Ulshoefer, Ms. Bauer, Mr. Malone, Mr. Rummel, Mr. Sutera and Ms. Tsigounis all voted yes. Councilman Kaplan was absent. Motion approved. The original resolution shall become a permanent part of these minutes.

Public Hearing – Application #1573 – 39 Center Street

Mr. Mark Madaio, Legion Drive, Bergenfield, NJ, was present representing the applicants. They are here tonight for 39 Center Street. He has the project engineer and architect with him. He presented the original notices to Mr. Stamos. Mr. Stamos noted that he did review the affidavit of service and the affidavit of publication from The Record as well as the list. Everything is in order and the Board has jurisdiction to hear the application.

Mr. Madaio noted that they will be discussing the construction of a new single-family house at 39 Center Street. The house is virtually conforming but requires two variances. The first variance is to total side yard. They have a total side yard of 31 feet where 35 feet is required, and the house will be approximately 44 feet wide. Right now, the property has a split on it, so instead of being long it is wide, and actually, the side

yards today are narrower and less than the ones which they propose. Their architect will explain that as they go.

They also require a variance for improved lot coverage and impervious lot coverage. Once again, any deviation is substantial and is to be taken seriously, but the deviation here is 200 square feet. That is the total overage in the house, the pool, the patio, the garage, the driveway, the whole mishmash. That, again, is calculated as being just slightly over because this lot is actually quite long. Under the Borough's ordinance, it only lets you calculate the first 125 feet. Actually, if you were able to calculate coverage based on the lot, as opposed to 125 feet, they would be 28% coverage and would be well under. Please keep that in mind. Once again, that is part of that process, if you build long, it's different than building wide. Either way, you can only count to that 125-foot setback line. So, yes, they technically need a variance. If they were able to count the entire lot, they absolutely would not.

Mr. Madaio called Mr. Raul Mederos, 24 West Railroad Avenue, Tenafly, NJ as his first witness. He noted that he can explain a little bit about what is there and how the impact of this variance measured by what's there is actually a decrease and thereby an expansion in the side yards. He also wanted to point out that everyone remember that each of their side yards conform, it's just the total that is four feet short. Each of them individually conforms and is greater than what is there now.

Mr. Mederos was sworn in by Mr. Stamos. He has been here before, and his license is still in good standing and the Board accepted him as an expert in architecture. Mr. Madaio asked Mr. Mederos to go over what is there existing today. Mr. Mederos wanted to leave the coverage portion to the engineer. He noted that what is there today is the run-of-the-mill split-level home with a one-car garage, one-car wide driveway. It's a little bit wider than what they are proposing here by a little more than two feet. It has a little bit smaller side yards existing. What they are proposing are conforming individual side yards where at least one side of the current structure did not conform. Their building is also one foot narrower than what the maximum width would be while conforming to each individual side yard. So, if they had to conform to each 15-foot side yard and maximize it based on the 75-foot-wide lot, they would have a 45 foot wide house, but theirs is 44 feet. It's just that the design worked out that way, so they benefitted in terms of the square footage for making it narrower.

This is the standard kind of challenge here for a lot that is 75-feet wide with such rather strict side yards, particularly with a combined side yard. If you were to conform, you would end up with a house that is all garage, because a two-car garage is extremely standard in today's expectations of a new home. So, you end up with a house that is mostly garage and just a foyer. There is nothing left for a living room or dining room in the remainder. So much garage is kind of overpowering and not very desirable or aesthetically pleasing, so actually deviating from the combined side yard requirement, and giving them the extra width, gives them a little more house to present on the street as opposed to just the small foyer and the garage.

Mr. Madaio asked Mr. Mederos to discuss the design of the house. He asked if the house has a basement. Mr. Mederos stated that the house has a basement. Starting from the basement, there is nothing too out of the ordinary. There is a big rec room, a full three-piece bathroom that is shared for the entire level, a bedroom with a legal egress window, what the owners plan to use as a music room, an exercise room next to that, and the mechanical room, storage area and a wine cellar. Mr. Mederos noted that the owners had a very clear vision as to what they were looking for in terms of priorities. The unique thing about their first-floor plan is that there isn't a living room. Typically, a living room these days, when he is designing new houses is just getting, crunched, crunched, crunched more and more and more, but somehow just doesn't really want to go away and still has value. In this case, this is very personal to them, and they are okay not having the living room to be able to have more decent sized dining room, kitchen and family room and other actual living spaces, where actual living rooms tend to be more of a showroom these days. There is also a bedroom on the first floor. Mr. Madaio noted that they replaced the living room essentially with a bedroom on the first floor and once again, they are looking at a home that is relatively long and narrow and not particularly wide. Mr. Mederos said he thinks appropriately wide.

Mr. Mederos stated that the second floor only has three bedrooms. The extraordinary part is that there is a lot of double-height spaces, in particular the foyer and family room in the rear on the first floor. There is

no FAR variance. The chief measure of density and use they are fine on. The three bedrooms on the second floor and the one on the first floor and the one in the basement total five bedrooms, where normally they would have four bedrooms on the second floor. The finished area in the cellar is 1,461, finished areas on the first floor is 1,742 and finished areas on the second floor are 1,451. The area that is open to below amounts to just under 700 square feet on the second floor. Mr. Mederos pointed out the double-height foyer area and double-height family room area in the rear. This is not called a split-level. Mr. Madaio stated that the point of advising the Board that the existing home is a split-level is because splits tend to be wide and is actually wider than what they propose, and they actually have better setbacks than are existing.

Mr. Madaio asked Mr. Mederos if the double-height area in the foyer would be possible in a narrower house. Mr. Mederos didn't want to say it was an impossibility. Mr. Madaio noted that being wider allowed them to treat it as a center hall foyer and entryway. Mr. Mederos stated that if it were any narrower, trying to maintain a usable master suite on this side and kids' rooms on the other side, clearly it would collapse in on itself and the double-height space would just go away.

Mr. Mederos showed the exterior of the house. It is a very standard roof design hidden behind the parapet walls on the front. The front looks either square or rectangular, but right behind that is a regular pitched roof that goes the length of the structure. Mr. Mederos stated that he hasn't seen this before, so he was excited to come up with this. It is a standard roof with a main ridge across the center and everything pitches to the sides and angles in on itself to pitch towards four main leaders on each side of the house. The front looks a little creative or modern. The fact is it is basically a pitched roof front to back and they are of a conforming height.

Mr. Stamos asked for the square footage of each level. Mr. Mederos noted that starting from the cellar, the finished areas are 1,461, finished area on the first floor is 1,742, and finished area on the second floor is 1,451. Clearly, the cellar is not computed in the FAR calculation. Mr. Azzolina confirmed that the basement area is not included in the FAR.

Mr. Madaio stated that this is not a spec house. This home is built and designed for the people that are here and asked for this design. This is specifically where they would like to live and the lifestyle they would like to have.

Mayor Romeo asked if any of the drawings showed the roof in more detail. Mr. Mederos showed the drawings behind the parapet where you can see the standard regular pitched roof. Ms. Tsigounis asked the question that nobody can walk on the roof and use it as a deck or patio. Mr. Madaio stated that they cannot. It is just like the roof of any other pitched houses. Mr. Mederos explained that the dashed yellow lines show how the roof behind the parapet pitches down. Ms. Florio asked what the height was at the peak of the parapet. Mr. Mederos noted that it was 27.8 feet. The parapet is at slightly different heights. The reason they are able to do that is because the roof behind it slopes down. Mr. Madaio stated that they are not seeking a height variance. They couldn't build with a height variance. This is a very intentional design not to need a height variance. It is fully conforming.

Ms. Florio noted that normally on a pitch you have gutters somewhere and she asked where the gutters were. Ms. Mederos used folded paper to show the pitched roof and the slants and where the roof gutters go. The water will shed inwards, and the gutters will be in the center on each side. Mr. Madaio stated that they have to capture whatever comes off the structure and it all has to go into a seepage pit.

Mr. Madaio called Mr. Sean McClellan, 101 West Street, Hillsdale, NJ, who was sworn in by Mr. Stamos. He has appeared before the Board many times and was accepted as an expert engineer. The site plan was prepared by his office, and he is the project engineer on this project. Mr. Stamos marked the architectural as Exhibit A1 and the engineering plans as Exhibit A2. Mr. Madaio asked Mr. McClellan to describe the existing site conditions, the variances and what is proposed.

Mr. McClellan pointed out the existing home. If you are looking from the street, the side yard is 9.7 feet where 15 feet is required. The total combined side yard is 28.7 feet where 35 feet is required. Mr. McClellan stated that they are bringing that up to 31 feet and the 9.7-foot side yard is replaced by a 15.8-foot side yard.

The very deficient single side yard setback gets replaced by a conforming side yard setback. The other side yard setback is also conforming, and the total is just shy of what is required but still greater than what is there now by 2.3 feet more of space between the house and the property line.

Mr. Madaio asked if Mr. McClellan was able to ascertain the improved lot coverage on the existing structure and house. Mr. McClellan stated that the existing coverage is 1,348, or 12%, and 2,566, or 27.4%. They are seeking a conforming building coverage of 2,239 at 19.9% and the impervious coverage is 3,249 which is 34.7%, where 32.4% is allowed and that is why they are seeking a variance. In square footage, that variance is about 212 square feet. Mr. Madaio reiterated that they are seeking 200 square feet of additional impervious coverage. If you calculated the whole lot, it would be conforming. Mr. McClellan agreed. They are only allowed to use the first 125 feet for FAR and for impervious coverage. Even though they are restricted, they are still meeting the FAR requirement. He did the calculations, and if they take their impervious coverage and divide it by the entire lot, they would get 28.8%. The lot is 150 feet deep.

Mr. Madaio asked Mr. McClellan about the proposed house and how they were going to handle the drainage that comes off that roof. Mr. McClellan noted that based on the size of the house, they will have two 1,000-gallon seepage pits, one in the rear and one in the front. The required storage for that is about 2,800 square feet and they are providing over 3,800 square feet, so more than 1,000 gallons of capacity over what is required. Mr. Madaio stated that their seepage pits are oversized even though the building is of a conforming size. Mr. McClellan agreed.

Mr. Madaio stated that they are going to use the same gas, sewer, and utility hookups. He asked if there was anything on the site that they need or lack from a site plan perspective. Mr. McClellan stated that they always try to use the existing utilities. Those will be inspected, and they will provide a copy of that inspection to Mr. Azzolina when that is done. As trying to reduce the impervious coverage, they have the house at 25.2 feet, where 25 is required, some driveway is minimalistic and is 20 feet wide. He can save a couple square feet by pushing it up, but they always try to leave a little bit of room. Mr. Madaio noted that the answer isn't that they have a really long driveway and they are abusive about that. The answer isn't that the driveway is too wide because it is 20 feet wide, a two-car width. Right now the driveway only parks one vehicle. Mr. McClellan said he believe the driveway is closer than 10 feet to the property line, so they are improving that situation. Mr. Madaio stated that that is another variance that they are eliminating while still providing two side by side vehicle parking on the driveway. The front steps, which are accessed from the driveway in the current plans, can't be changed or moved because you have to be able to get there from the driveway. They also have a minimum size patio in the back. The pool has to be 15 from the house. The patio that sits there is 15 feet from the coping. Mr. McClellan said that the code is not clear if it is supposed to be 15 to the coping or 15 to the edge of the pool so he went 15 to the coping. The patio is at a minimum. The answer isn't because they want a really big patio. The patio has to fill that space. The pool is 16 by 32 feet. They only count the coping around the pool, so the numbers add up in total giving them that 212 square foot overage.

Mr. Madaio stated that the site shows trees that were removed in site preparation. They didn't take them off the site plan because they were happy for the Board to see what was removed. Of course, they would have to comply with the Borough's Shade Tree and Tree Removal ordinance. Mr. McClellan stated that the survey is dated in July, so at the time, this was the tree situation. In the event that there are requirements under the tree management ordinance, whatever is required, absolutely they have to comply. Any approval the Board would do is subject to that. They have always had to comply.

Mr. Madaio asked Mr. McClellan if there was anything in Mr. Azzolina's letter that he cannot comply with or any suggestion that he would dispute as being not appropriate for some reason. Mr. McClellan agrees with the comment about the curbing being replaced. He knows water is always an issue nowadays. Luckily, just last Friday, February 11, he met the builder at the site and he did test holes on both 33 Center and 39 Center. They dug down to just over nine feet and they saw no water. He believes that their base elevations will be okay.

Mayor Romeo asked Mr. Azzolina if he was okay with this. Mr. Azzolina noted that the only other recommendation he would make is if a sump pump were to be installed into the home, that it be connected

into the inlet that is immediately in front of this property rather than putting an opening in the curb, which just creates problems down the curb line. They have the ability to tie right in should a sump pump be required. It is good that they did not hit water on this date, but groundwater fluctuates. It could be dry this year and as the applicant knows, very wet sometime thereafter.

Ms. Furio stated that they have a bedroom in the basement kind of shoehorned in right behind the garage. You have access from the garage, through the mudroom and another door right into the bedroom. Is there any contingencies for, in the winter, starting the car up, forgetting to close doors, and carbon monoxide, and it is right into the bedroom. Is there something to alleviate that and make sure that things are safe for the homeowners. Mr. Mederos noted that the code will require him to install a carbon monoxide detector within 10 feet of the bedroom door so there will by code be required to be a detector there. Ms. Furio said that she is just looking out for safety. Mr. Mederos stated that he wants to be protected as well as anybody from any kind of life safety issue. It would be a self-closing door to the garage as well. He is going to guess that the homeowners would probably have electric cars, but in the event that they do have regular cars, he would say that it is a self-closing door, there is a carbon-monoxide detector by code and one in the bedroom can be installed as well. He doesn't think there is a code saying that you can't have extra detectors. Mr. Madaio said they would be happy to do that. That seems like a good solution. Mr. Mederos agreed that an additional carbon-monoxide detector in the bedroom might be a good measure.

Ms. Tsigounis wanted to go back to the engineer and the impervious, she knows that Mr. Azzolina made a note of it, regarding the swimming pool. The swimming pool has absolutely no patio surrounding it. As far as the pool equipment and the generator, those don't have to be on a concrete pad or anything? Mr. McClellan said that they do count for those. He noted that the pool equipment is 32 square feet and other pad is 35 square feet.

Mr. Sutera asked about the music room and wanted to know if there was any kind of special soundproofing that is required when you call that a music room. Mr. Mederos stated that he hasn't gotten into too many specifics with the owners except that it is going to be used for music. He thinks they play an instrument. It is specific to the owners. Mr. Sutera asked if there was a window there. Mr. Mederos noted that there is a window on the side, but it only serves to give egress to the bedroom. It doesn't feed natural light anywhere else in the basement. It is the only window in the basement.

Mr. Madaio asked the homeowner, Mrs. Chin, if there was anything special or odd about the music room. She was sworn in by Mr. Stamos. Mrs. Chin said not really. They plan piano and her husband wrote her a song for their wedding and they just wanted to use that room to practice and wanted to have some space that was not on the first floor. It is not for teaching or anything like that.

Mr. Stamos asked Mr. Madaio if they were asking for variance relief under the C1. Mr. Madaio stated that they believe that the variance relief here is based upon a hardship, but they also believe that in lessening the existing variances, they are complying with the terms of a flexible C variance by also making the site more conforming. Their side yard setback situation is far more conforming than it otherwise would be, and they think that is a benefit to the purposes of zoning, in fact it is the essence of the purposes of zoning. They also believe that the lot being very long and narrow, based upon the ordinance, provides a calculation that makes even a house that doesn't need an FAR, that makes a house that is even relatively conforming, need a variance for improved lot coverage, because you are only to count to here (points to 125 foot line), for some reason you have to stop counting here. That in fact, is one of the hardships that they are facing.

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

Ms. Tsigounis made a motion to approve the application as presented. Mr. Malone seconded the motion. On Roll Call: Mayor Romeo, Mr. Ulshoefer, Ms. Bauer, Mr. Malone, Mr. Rummel, Mr. Sutera, Ms. Tsigounis and Ms. Furio all voted yes. Motion approved.

New Business

None.

Other Business

None.

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

Motion was made by Mr. Sutura to adjourn the meeting at 8:22 PM, seconded by Ms. Furio. All present were in favor. Motion approved.

The next four regular Planning Board meetings are scheduled for March 8, March 22, April 12, and April 26, 2022, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo
Recording Secretary