

## **MINUTES**

### **CRESSKILL PLANNING BOARD**

**JANUARY 22, 2019**

Mr. Morgan 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, Councilwoman Tsigounis, Mr. Morgan, Mr. Durakis, Mr. Mandelbaum, Mr. Ulshoefer, Mr. Malone and Mr. Rummel. Ms. Bauer arrived at 7:34 PM. Also present were Mr. Paul Azzolina, Borough Engineer, and Mr. Schuster, Planning Board Attorney.

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Mr. Durakis made a motion to approve the minutes of the January 8, 2019, meeting, seconded by Mr. Ulshoefer. All present were in favor of the motion. Motion approved.

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#### **Correspondence**

Letter of Introduction from Mr. Bob Rusch, dated January 14, 2019, sending Mr. John Finetto to this Board for approval. He would like to construct a new single-family dwelling at 159 Magnolia Avenue. No application has been received. It is noted on the Letter of Intro that an FAR is required. The FAR will be required from the Zoning Board. He would go to the Zoning Board first and then come here. A note was sent to Ms. Bauer from the Zoning Board that they are to hear the FAR variance and that is it. The rest of the approvals will be heard before the Planning Board.

Letter of Introduction from Mr. Bob Rusch, dated January 18, 2019, sending Christy K. Brows and Wax Lounge to this Board for approval. They wish to open an eyebrow and wax salon at 135 County Road. Christy was present. Christy noted that the space is on the first floor. She has about 600 square feet. Right now, she has a studio in Englewood and is looking to relocate. She is by herself right now but plans on bringing one or two people on with her. One is committed and she is looking for a second. The maximum she would have at one time is three. She would need a maximum of six parking spaces. Her hours would be Tuesday-Saturday from 9:00-4:00 or 5:00ish. Wednesday's are late, until about 8:00 PM. She is going to be just eyebrows, waxing and facials and skin care. She needs a CO to get the State Board to come in and inspect. She is licensed through the State of New Jersey, which is required. Anybody that she brings in would be licensed as well. Mr. Ulshoefer made a motion to approve, seconded by Mr. Mandelbaum. All present were in favor. Motion approved. Letter of approval sent to Christy, with copies to Ms. Francesca Maragliano, Mr. Bob Rusch, the Police Department, the Fire Department, and the Health Department.

Ordinance No. 19-01-1533, An Ordinance to Amend Chapter 275 to Repeal and Replace the Provisions of Article XXXV of Ordinances Relating to the Accessory Apartment Program of the Borough of Cresskill. Councilwoman Tsigounis explained that this is clarifying the definition of an accessory apartment and when you can have it. Copy to Mr. Schuster. Mr. Morgan signed off on the memo as an approval from the Planning Board and it was returned to Ms. Maragliano.

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**Subdivision Committee**

Councilwoman Tsigounis had nothing to report.

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

Mr. Azzolina had nothing to report from his office.

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**Old Business**

Mr. Sutera from Knickerbocker Road was present regarding Application #1538M, 403 and 411 12<sup>th</sup> Street, that was withdrawn. He had some follow up that he hoped he could get some relief. He came back to the Planning Board because this is where the discussion started. Mayor Romeo noted that they removed all of the pavers. Mr. Sutera noted that he removed them but he has created another problem in the process that he wanted to bring to the attention of the Board. Basically, on the neighboring property, which still remains connected, there is a permanent structure on the neighboring property that is currently being used as a cabana. When they removed the impervious coverage, they added it to another pile of debris and building materials on property 403, which is currently being rented out to a family with small children. They had asked originally about a year ago if the building materials were going to stay there indefinitely and they were told there was nothing that they could do. Subsequently, in looking through the storage prohibitions in town, they are pretty clear in terms of what you can and cannot store on your property indefinitely.

There doesn't appear that there is any intention to move that debris. You may take a look at the structure itself and notice that there are no entrances on the property where it actually sits so there doesn't appear to be any intentions to put those materials behind or properly store them. That has been there longer than they would like. He has not gone to the Building Department because they didn't want it to come out in the wrong way. He is sure there were discussions verbally but there doesn't appear to have been any compliance.

Mr. Sutera noted that there is another subsequent problem from the location of where that structure is. In fact, the properties are now contiguous, they are linked. There are two material violations on their pool barrier. That shed is part of their barrier and State and Federal law is very specific in terms of design requirements for the barrier. The whole idea of the barrier is to prevent people from getting in. The fence juts into the cabana to enclose the property. There is no fence on 411 where the pool currently stands. It stands five feet over which is the reason they asked for the subdivision in the first place. The entrance to the shed is on property 411, which is used as a cabana. He did a little look today on the State website in terms of the current codes. It is very specific in terms of barriers and fences. There was some question about can you share a fence between neighboring properties. The opinion is, yes, it is permissible to share a swimming pool barrier provided the local authority having jurisdiction grants variation to do so. The variation should include a statement from the fence owner acknowledging the use of this fence as a swimming pool barrier, a statement from the pool owner (in this case it would be the same person) acknowledging his responsibility to install a compliant barrier should the neighbor remove the fence for any reason. However, the barrier should not be climbable, as per code, from the side away from the swimming pool, and if there is a swimming pool on both sides of the barrier, the barrier should not be climbable from either side. There is also a setback requirement when you have a barrier and structure nearest to the barrier. It is a clearance prohibition that basically says, "barriers shall be located so as to prohibit permanent structures, equipment, or similar objects being used to climb the barriers." In terms of the fencing, it has to be very specific, it says, "solid barriers shall not contain indentations or protrusions except for normal construction and tool masonry joints." This is from the State of New Jersey.

Mr. Sutera recognizes that this might more recently be a Zoning story, but, frankly, since it started here, they wanted to, at least, keep the Board up-to-date. Mayor Romeo asked if he was using five feet of the other yard when he really can't do that. Mr. Sutera said that he can't and shouldn't. It may sound like a gripe from the neighbor, but there could be potential litigation if there were an event and somebody were to say was this inspected and how could you get a fence permit that doesn't meet the requirements of the State code. Mayor Romeo asked that he leave the information and he will go to Mr. Rusch and have him look at it.

Mayor Romeo stated that he can't use the building material on his property, and he can't store it unless he plans on using it. Mr. Azzolina stated that if he is proposing to use it where the ranch is, he probably has some coverage available to him. Where the newer house is, he is at the limit.

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Resolution for Application #1536M-A was introduced by Mr. Durakis, seconded by Mayor Romeo. On Roll Call: Mayor Romeo, Councilwoman Tsigounis, Mr. Morgan, Ms. Bauer, Mr. Durakis, Mr. Mandelbaum, Mr. Ulshoefer and Mr. Malone all voted yes. Mr. Calder was absent. Motion approved. The original resolution shall become a permanent part of these minutes.

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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 Mayor Romeo to adjourn the meeting at 7:50 PM, seconded by Mr. Durakis. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for February 12, February 26, March 12, and March 26, 2019, at 7:50 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary