

## **MINUTES**

### **CRESSKILL PLANNING BOARD**

**OCTOBER 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. Calder, Mr. Durakis, Mr. Mandelbaum, Mr. Ulshoefer, and Mr. Rummel. Ms. Bauer arrived at 7:32 PM. Also present were Mr. Schuster, Planning Board Attorney, and Mr. Azzolina, Borough Engineer.

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

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### **Correspondence**

Letter from the Law Office of Mr. Mark Madaio, 29 Legion Drive, Bergenfield, dated October 17, 2019, regarding the subdivision at 26 Cresskill Avenue. The subdivision was approved and both lots were issued building permits, homes were constructed on both lots and COs were issued for both houses. One house has already been sold. Mr. Madaio has been advised by the Title Company for the purchaser of the remaining house that the Subdivision Deed was not recorded within the 90-day period, as required by statute. He personally does not believe this is a defect. However, the Title Company wants to be certain. Accordingly, he has prepared the enclosed proposed Resolution permitting a 60-day extension in the recording of the Subdivision Deed Nunc Pro Tunc, so that the Subdivision Deed shall be deemed timely.

Mr. Madaio was present. He noted that the two-lot subdivision was granted on January 8, 2019. A resolution was completed on February 13, 2019. They diligently and pretty quickly got the subdivision deed to the town on February 20. They had legal review and engineering review and some comments and the deeds were ultimately signed by the Board and sent back to him on July 16. Unfortunately, on July 19 he started a 62-day stay in the hospital. Huge chunks of that were either in an induced coma or in ICU. At some point during this, he made arrangements for the closing attorney to record the deed since they were still on time then. They were still within the 180 days. Unfortunately, he just held the subdivision deeds to record them right before the closing, so that the Title Company that did the closing could also record the subdivision deed. That turned out to be 239 days. He discovered this last week, which was his first week back at work. Interesting, the subdivision included the deeding of the five-foot strip to the Borough in the front. That they did get done. That was recorded and he got a call from the Tax Office that they did receive the recorded deed. The two houses have been built. Both houses have COs. In fact, one of the houses has already been sold and the Title Company didn't raise an issue about the 190 days. The remaining house is scheduled for sale immediately and the Title Company said they crossed the 190-day boundary.

Mr. Madaio expressed his position that if the County Clerk accepts the deeds for recording, they are recorded and, oh by the way, the adjoining house has Title Insurance and is fine. Plus, the town has its five-foot strip. He can't record another subdivision deed since because one of the houses is sold, he no longer has title to the property. Mr. Schuster and he agreed and what would satisfy the Title Company is a resolution just extending the time to record the deeds for 60 days. That would make the 239<sup>th</sup> recording a valid recording. That would satisfy the Title Company. Mr. Schuster and he went over and prepared a resolution that would resolve the matter. The corrected resolution is present tonight that can be acted on tonight.

Mr. Schuster wanted it to cite the statutory authority to do this. There is certain language you are supposed to include as part of that which is included in the resolution. The Board is okay with this. Mr. Mandelbaum introduced the resolution, seconded by Mr. Calder. On Roll Call: Ms. Bauer, Mr. Calder, Mr. Durakis, Mr. Mandelbaum, Mr. Morgan, Mayor Romeo, Councilwoman Tsigounis, Mr. Ulshoefer and Mr. Rummel all voted yes. Motion approved. The resolution shall become a permanent part of these minutes.

Public Notice NJDEP Letter of Interpretation (LOI) Line Verification from PK Environmental, dated October 15, 2019, that states that the Borough of Cresskill has submitted an application to the NJDEP Division of Land Use Regulation for a Letter of Interpretation (LOI) Line Verification to confirm the regulatory limits of freshwater wetlands and wetlands transition area (buffer) on the 1.63-acre Borough owned property at Block 83, Lots 90 through 109 East Madison Avenue. Enclosed is a copy of the "NJDEP LOI Line Verification Survey" prepared by Azzolina & Feury Engineering Inc. which depicts the existing property conditions and the location of the on-site wetlands. Mayor Romeo explained that this is the COAH piece on the corner.

Mr. Mesih Berberoglu, 90 E. Madison Avenue, was curious about what the Borough's plan was for the property. It wasn't clear in the letter that he received. Mayor Romeo stated that the Borough is looking to put some COAH housing there, one small building to house physically and mentally challenged adults. Mayor Romeo asked who sent the letter. Mr. Azzolina noted that PK sent the letter and explained that by law they are required to notice property owners within 200 feet of the tract which encompasses the two lots at the corner where the development is contemplated but not yet planned. This is the first step in the process. They also included the property across the street from Mr. Berberoglu, which is a larger tract, most of which is restricted against development. There is nothing that is going to happen on those properties.

Mr. Azzolina explained that this is the first step in the process where they delineate what they believe to be the limits of the freshwater wetlands and then, subject to their approval, there are additional permits that would be required before this would be realized.

Mayor Romeo stated that this is going to be on the corner where the food bank was. It will look like a house with five or seven units. Mr. Berberoglu asked if, in regards to COAH and affordable housing, isn't it a percentage of what you build. So, if you build six units, isn't it two units that go to affordable housing. Mayor Romeo explained that they are diverted from other areas to be there. So, if there were ten units at the Hamrah's property and two were COAH, the two COAHs would go there. Mr. Berberoglu stated that Mayor Romeo mentioned earlier that the property was for challenged or handicapped people. Mayor Romeo noted that they are for adult special needs type of people that live at home with their parents and they are adults. Mr. Berberoglu asked if there were any studies on what effect it would have on the neighborhood. Mayor Romeo noted that there is someone in the house with them. And these people work. They work at Kings or somewhere and they basically can take care of themselves.

Mayor Romeo stated that they don't even have the approvals yet because part of that is wetlands. They have to go to Trenton to see if they would consider even letting them use it. It is zoned for this type of housing for probably 25 years. Now it has come to the point where we need to satisfy the next round, which would be in 2025. It could take that long to get to that point. They are not going to build some kind of monstrosity. Mr. Berberoglu asked about how it was going to be funded. Mayor Romeo noted that they have the money for it already. People that have built in town have contributed to the COAH fund.

Mayor Romeo explained that there are 40 COAH units all over town and you don't even know they are there. They are sprinkled around for the privacy of the people that are living there and also so it is not some sort of stigma and it doesn't affect you. This will be a nice-looking house. The only thing he has seen similar to it is on Tenaflly Road in Tenaflly. It is a very worthy population. Mr. Berberoglu stated that as long as it is positive and is good for the municipality, they are all for it. Mayor Romeo noted that they want to stay ahead of the curve because if they come in with a Builder's Remedy after we're off the quota satisfaction, they can sue and build things that you don't want them to build. In Dumont they have three story buildings.

Mr. Schuster said that if we comply, we don't have to deal with that. This won't look like a housing project. It will look a little bit larger than a regular house. Mr. Berberoglu is concerned with the negative effects that low-income housing brings. It is not the people living there, it is the people that are related and come visit. The concern is the possible family members that will come and stay there. Mayor Romeo stated that they are one-bedroom apartments. There is no room for people to stay over. They are not going to have guests staying over.

Letter from Mr. Matthew Capizzi, Capizzi Law Offices, dated October 14, 2019, regarding Application #1550M, 292 Magnolia Avenue, the subject of the Public Hearing scheduled for tonight. They wish to adjourn this matter from tonight's agenda and request that it be carried to the Board's November 12, 2019 agenda, without further notice. Additionally, the Applicant hereby grants the Board an extension of time to render a decision on this matter up to and including November 13, 2019.

Mr. Morgan stated that the Zerrenner Application is currently scheduled for November 12, 2019. The Board preferred to not schedule it on the same date as the Zerrenner Application. Mr. Schuster stated that Application #1550M, 292 Magnolia Avenue was postponed to November 26, 2019, without further notice.

Mr. Paul Nelson, 156 8<sup>th</sup> Street, Cresskill, was present for the Public Hearing that is now postponed. He wanted to make the Board aware of something in relation to this application. He is representing the Church on 12<sup>th</sup> Street that abuts this particular subdivision. He is the chairman of the trustees. This matter, in 2004, came before the Planning Board. The Petrino family was interested in doing something also (the previous owner of that particular property). They had it surveyed and when they had it surveyed, they placed survey markers that were obviously on what most people consider is the church's property. They wrote them a letter to please move their parking lot and use this as the survey. The church did their own survey for the particular property and found that the property line that does exist is indeed accurate.

Mr. Schuster asked if as far as they are concerned there is no need to move anything because the property reflects what is on the survey now. Mr. Nelson said that the survey has two iron pins that are displaced on the church's property, one is four feet and one five feet on the church's property. So, the 49 feet of property that they are using, based on the two iron pins, the actual property line is five feet displaced towards Knickerbocker Road. The church property has a big church and two houses. The white house is the adjoining property for this particular property. Mr. Schuster asked if he checked the town tax map. Mr. Nelson said that is what they have. He said this is a survey that was done in 2004 as a result of the same issue. His complaint is that he needs the Planning Board to accurately use the correct property line between the two properties for this application. That is the issue. Mr. Azzolina said that he will have a discussion with the applicant's surveyor to make him aware of this situation.

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#### **Subdivision Committee**

Councilwoman Tsigounis noted that revised plans for Application #1550M, 292 Magnolia Avenue, was received. The Public Hearing is being postponed.

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

Mr. Azzolina had nothing to report.

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#### **Old Business**

None.

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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. Durakis to adjourn the meeting at 8:06 PM, seconded by Mr. Calder. All present were in favor. Motion approved.

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The next four regular Planning Board meetings are scheduled for November 12, November 26, December 10, 2019, and January 14, 2020, at 7:30 PM in the Borough Hall.

Respectfully submitted,

Carolyn M. Petillo  
Recording Secretary