

ALPINE BOARD OF HEALTH

Tuesday, February 19, 2019 - Alpine Borough Hall At 7:00 P.M.
(This meeting was taped in its entirety).

CALL TO ORDER/PUBLIC ANNOUNCEMENT: Secretary Wehmann called the meeting to order at 7:05 p.m. and Dr. Laifer read the following Public Announcement in compliance with the N.J.S.A. 10:4-6 et seq.: *In accordance with the provisions of the New Jersey Open Public Meetings Law, the notice of this Reorganization and Regular Meeting held Tuesday, February 19, 2019 has met the requirements of the law by being published in The Record, posted on the bulletin board of the lobby in the Borough Hall and on the Borough's website and a copy filed in the office of the Borough Clerk.*

OATHS OF OFFICE:

Dr. Basil Dalavagas were administered the oath of office by Mayor Tomasko for a four-year term as Member of the Alpine Board of Health expiring December 31, 2022.

Dr. Deane Penn was not present and will be sworn in at a later time for a four-year term as Member of the Alpine Board of Health expiring December 31, 2022.

ROLL CALL: Present: Dr. Dalavagas, Dr. Laifer, Ms. Snow, Mr. Inguaggiato, Sr.(Alt. I)
Dr. Gasalberti arrived at 7:08 pm

Absent: Dr. Penn

Also present: Dave Lafferty, Esq., Attorney for the Board, Perry Frenzel, P.E., Nancy Wehmann

APPOINTMENTS:

Chairperson: Dr. Penn upon motion by Ms. Snow, seconded by Dr. Laifer - approved by all.

Vice Chairperson: Dr. Laifer upon motion by Ms. Snow, seconded by Mr. Inguaggiato, Sr. and approved by all.

Secretary: Nancy Wehmann: upon motion by Ms. Snow, seconded by Dr. Laifer and approved by all.

Authorized Agent: Perry Frenzel, P.E. upon motion by Dr. Laifer, seconded by Ms. Snow and approved by all. (Pursuant NJAC 7:9A-2.1 Standards for Individual Subsurface Sewage Disposal Systems)

Registrar of Vital Statistics: Nancy Wehmann: upon motion by Ms. Snow, seconded by Dr. Laifer and approved by all.

MINUTES 12/11/2018: Approved upon motion by Ms. Snow, seconded by Mr. Inguaggiato, Sr. and approved by all those eligible to vote.

REPORT OF HEALTH DEPARTMENT: A copy is on file. Mrs. Wehmann provided the following summary for the reporting period 12/1/2018-1/31/2019:

Authorized Agent (Engineer): 3 test holes inspections, 2 septic plan reviews (permit pending), 1 new septic system permit issued, 10 septic systems in progress, 1 septic repair, 1 sewer connection to Closter pending (prior interlocal agreement), 19 septic systems substantially complete pending final inspections, 2 AWPTD licenses (inspections up to date), 9 other reviews: 4 RTSIR, 3 for CCO, 1 SIR Post RT 1 building permit review

REHS: Investigation dog on dog bite, potential bat exposure (tested negative)

Other reports: Annual license renewals issued: 5 septic installers, 2 restaurants, 1 pool, 1 limited convenience store, 1 poultry license; dog and cat licensing ongoing; DEP Construction Permit Suez Water to replace pumping station Anderson Ave; BCDHS Nursing: School Immunization Audit 100% compliance; BC Animal Control: 10 patrols, 1 bat removal, 1 cat returned to owner; Data for 2018 NJ Local Board of Health Registry and Report submitted to BCDHS.

Public education displays focused on handwashing, flu prevention and cancer support programs.

BUSINESS:

Continued from August 23, 2018: Alpine Three LLC – Septic System Review pursuant to N.J.S.A. 58:11031 and N.J.A.C. 7:9A-3.20 Block 48 Lots 6.01, 6.02, 6.03 – 982 Closter Dock Road

The Board is in receipt of a letter dated December 20, 2018 from Applicant's Attorney, Guliet Hirsch, stating that as a result of their expert's conclusions, Alpine Three, LLC requests the Board accept the reports of both their expert, Thomas E. Dwyer, Principal Geologist of Dwyer GeoSciences, Inc., dated December 20, 2018 and the Board's expert, Robert E. Schwankert, P.E. Melick-Tully, dated November 30, 2018 into the record without further testimony and render a formal decision at this meeting.

Attorney Hirsch recalled Alpine Three had requested a hearing process to address a May 2018 letter by then Borough Engineer Gary Vander Veer that neither approved or denied approval for the proposed blackwater septic system. The hearing began August 23, 2018 with testimony by Mr. Dwyer. Extensive public comments and documents were introduced by Mr. Incontro which Ms. Hirsch responded to in a subsequent letter. At the hearing the Board requested additional time to retain their own hydrogeological advisor who submitted a report was in November. A site inspection was conducted on November 14, 2018 which included the Board's Attorney, engineer and expert as well as several Board members. For the record Attorney Lafferty represented that no quorum was present at the site visit and he assured there was no discussion among Board members who visited the site one at a time. Ms. Hirsch requested additional time for review and, as they would not be ready by the Board's regular December meeting agreed to carry the matter to the Board's February meeting. Mr. Dwyer subsequently responded to Mr. Schwankert's November 30th report on December 20th

Attorney Hirsch could not recall having ever been in the position before of filing an application and then finding they could not prove their case. In this instance both the Applicant's expert and the Board's expert have agreed the groundwater table on this site appears to be higher than expected. This may be attributable to more precipitation than is typical but septic systems have to work whether drought or excessive rainfall conditions occur. Attorney Hirsch highlighted excerpts from Mr. Schwankert's report that indicated groundwater levels are higher than expected and read from Mr. Dwyer's report:

"Based on our analysis, it is our opinion that the proposed onsite septic system for a capacity of 1900 GPD appears to not be feasible, because it does not comply with N.J.A.C. 7:9A-10.1, which precludes septic disposal fields where SHWL [the Seasonal High Water Level] is within two feet of original grade, and because calculated groundwater mounding along Schoolhouse Lane shows likely significant break-out of septic discharge, in violation of N.J.A.C. 7:9A-7.1"

Attorney Hirsch noted both hydrogeologists agree the septic system as designed for five units and 1900 gallons of flow is not going to be approvable. It is also her understanding that this is not a matter of tinkering with the design or additional testing but a basic fact and they are very unhappy to have to do this as a lot of time and money was spent getting to this point. It is the view of Alpine Three and its consultants that there is no point continuing this process given the conclusions of both experts. At this time, they ask both expert's reports be accepted into the record and for the Board to make a decision based on the record to date

without need for further testimony. She offered, however, that Mr. Dwyer was present if they have any questions.

Attorney Lafferty requested clarification if they are seeking a decision based on the record or are withdrawing the application. Attorney Hirsch replied they are looking for a decision based on the record. Attorney Hirsch affirmed Attorney Lafferty's description of the record consisting of the expert reports dated November 30, 2018 and December 20, 2018 as well as the testimony and exhibits introduced into the record at the August 23, 2018 hearing.

Attorney Lafferty requested the Board's expert, Mr. Schwankert comment on Mr. Dwyer's December 20, 2018 report for the record.

Robert Schwankert was sworn and testified he is a principal of the firm Melick-Tully & Associates, a division of GZA, 117 Canal Road, South Bound Brook, NJ. He made a site inspection November 14, 2018 and authored the November 30, 2018 report. He has reviewed Mr. Dwyer's December 20, 2018 report which put forth significant concerns relative to the current design particularly in regard to the groundwater conditions. Mr. Schwankert noted that, as requested, the December 20, 2018 report indicates Mr. Dwyer had further reviewed the findings Mr. Schwankert highlighted in his November report and Mr. Dwyer also concluded the system could not be designed consistent with NJ DEP regulations due to the high groundwater conditions. The system as proposed would not meet state standards. Mr. Inguaggiato asked if the systems could be modified to permit construction of one or two homes on the site and Mr. Schwankert stated that might be possible. He noted another disposal bed was already installed uphill from the one with the severe groundwater problem but he did not have sufficient information regarding that field to comment further.

Attorney Lafferty sought clarification that Mr. Schwankert's review concerned only the one system proposed at this time. Mr. Schwankert acknowledged same affirming they did not look at any alternatives or whatever else could be done. Attorney Hirsch asked if Mr. Schwankert was familiar with the site plan to inquire if Mr. Schwankert thought it would be possible for them to expand the fields at the current locations and still keep intact the proposed plan for five townhouse units. Mr. Schwankert's recollection was that, as proposed, there is not much room between the homes, the septic systems and the stormwater systems which pretty much cover the whole site.

Being no further questions Attorney Lafferty recommended Dr. Laifer close the hearing as concerns testimony and entertain a motion consistent with the evidence as presented.

Dr. Laifer closed the hearing and a brief discussion among Board members followed. Attorney Lafferty summarized both experts agree the plan as proposed will not satisfy state standards and cannot be approved. The decision before the Board is to approve or disapprove the application for the septic system as proposed. Dr. Dalavagas observed the testimony is so obvious they really don't have a choice.

Resolution: Upon a motion by Ms. Snow, seconded by Mr. Inguaggiato, Sr. that based on the information and testimony of both hydrogeologists the Board of Health disapproves the application for the septic system as proposed.

Vote: Ayes: Dr. Dalavagas, Dr. Gasalberti, Mr. Inguaggiato, Sr., Dr. Laifer, Ms. Snow

MOTION APPROVED

Attorney Lafferty distributed a formal resolution for memorialization to Attorney Hirsch and the Board members. He noted a typo on page 2 item 3 indicating the last hearing date was November 14, 2018 should be corrected to read August 23, 2018. Attorney Hirsch thanked Attorney Lafferty for preparing the resolution and had no objection to proceeding. Board members reviewed the resolution and voted as follows to memorialize.

Memorializing Resolution: “IN THE MATTER OF THE APPLICATION BY ALPINE THREE, L.L.C. FOR A CERTIFICATE OF APPROVAL FOR A PROPOSED SEPTIC SYSTEM REGARDING BLOCK 43, LOTS 6.01, 6.02 AND 6.03”

Upon a motion by Dr. Laifer, seconded by Ms. Snow to approve the form of the resolution as corrected and attached to these minutes.

Vote: Ayes: Dr. Dalavagas, Dr. Gasalberti, Mr. Inguaggiato, Sr., Dr. Laifer, Ms. Snow

MOTION APPROVED

COMMUNICATIONS:

Suez Water recent information regarding potential for lead contamination in some areas distributed to Board member's for review.

Note for record: Contracts approved by Mayor and Council January 3, 2019 and executed in January:

One-year contract with Hillsdale for the Child Health Conference

Other contracts remain in effect:

Bergen County for Bloodborne Pathogen Training Program in second year of automatic two-year renewal.

Bergen County for Public Health Infrastructure / Health Officer Services, Registered Environmental Health Services, Animal Control Program Services and Municipal Humane Law Enforcement Services is in the fourth year of a five-year contract.

ADJOURNMENT: at 7:37 PM upon motion by Dr. Laifer, seconded by Dr. Dalavagas and approved by all.

Respectfully submitted,

Nancy Wehmann, Board Secretary

Resolution: IN THE MATTER OF THE APPLICATION BY ALPINE THREE, L.L.C. FOR A CERTIFICATE OF APPROVAL FOR A PROPOSED SEPTIC SYSTEM REGARDING BLOCK 43, LOTS 6.01, 6.02 AND 6.03

MOTION BY: Dr. Laifer SECONDED BY: Ms. Snow

At this regular and reorganization meeting of the Alpine Board of Health held on Tuesday, February 19, 2019

WHEREAS, the Alpine Three, L.L.C., (the "Applicant") has applied to the Borough of Alpine Board of Health ("Board") for a Septic Permit pursuant to N.J.S.A. 40:55-39(d) and Sanitary Code of the Borough of Alpine Board of Health Section 2401 et seq., relating to certain real property designated as Block 43, Lots 6.01, 6.02 and 6.03 in the Borough of Alpine, commonly known as 982 Closter Dock Road;

WHEREAS, the Board conducted a public hearing on August 23, 2018 at which time the Applicant presented the testimony and report of its expert, Thomas Dwyer in support of its application;

WHEREAS, the public hearing continued on February 19, 2019;

WHEREAS, the Board after carefully considering the evidence presented by the Applicant has made the following findings and conclusions:

1. The Applicant is the owner of real property designated at Block 43 Lots 6.01, 6.02 and 6.03 in the Borough of Alpine with frontage Closter Dock Road to the north and Schoolhouse Lane to the south. The Applicant is represented by Guliet D. Hirsch, Esq.

2. The Applicant is proposing to develop the subject property with five (5) townhomes to be serviced with an on-site septic system.

3. The Board conducted a public hearing with regard to this matter on August 23, 2018, at which time the Applicant presented testimony of James Norian, the son of one Edward Norian, one of the principals of the Applicant, and Thomas E. Dwyer, P.G. of Dwyer Geosciences, Inc.

4. Mr. Dwyer's report dated May 2, 2018, has been made part of the record by the Board.

5. The Board retained Robert E. Schwankert, P.E. of Melick-Tully & Associates ("MTA") to assist the Board in connection with its review of this application.

6. MTA's report dated November 30, 2018, was accepted into the record by the Board with the consent of the Applicant's counsel. A representative of MTA inspected the site on November 14, 2018. The Board incorporates by reference the findings and conclusions set forth in the November 30, 2018 MTA report, which raised a number of issues with the proposed septic system's viability and conformance with standards and regulations.

7. Mr. Dwyer's supplemental report dated December 20, 2018, was accepted into the record by the Board; that report set forth findings and conclusions, including but not limited to the following:

a. "it is our opinion that the proposed onsite septic system for a capacity of 1900 GPD appears to not be feasible, because it does not comply with N.J.A.C. 7:9A-10.1, which precludes septic disposal fields where SHWL is within two feet of original grade, and because calculated groundwater mounding along Schoolhouse Lane shows likely significant break-out of septic discharge, in violation of N.J.A.C. 7:9A-7.1"

b. Ground-water mounding along Schoolhouse Lane is likely to result in significant breakout of discharged water and thus would not be approvable by the Bureau of Non-Point Pollution Control (BNPC).

c. "DGI agrees with MTA that a TWA application would be necessary to proceed with the proposed onsite septic system for a design flow of 1900 GPD, because it does not comply with N.J.A.C. 7:9A-10.1 which precludes septic disposal fields where SHWL is within two feet of original grade.

d. "[g]iven that calculated, mounded, wet season ground water elevations are likely to result in significant break out of discharged wastewater along Schoolhouse Lane, it is our opinion that the system, as proposed, could not be approved by the BNPC according to N.J.A.C. 7:9A-7.1

8. N.J.S.A. 58:11-25 provides:

No building permit for the construction of a realty improvement shall be issued by any municipal or other authority in this State nor shall the construction of any realty improvement be begun until the board of health having jurisdiction shall have certified that the proposed water supply system and sewerage facilities for the proposed realty improvements are in compliance with the provision of this act and the standards for construction of such water supply and sewerage facilities promulgated by the State Department as herein provided and those established by local ordinances, where such local ordinances prescribe higher standards than those promulgated by the State Department.

9. Based upon all of the testimony, evidence, reports and submissions in connection with this application, the Board cannot conclude that the septic system(s) would comply with the applicable standards because, as proposed, the septic disposal fields are to be located where seasonal high water levels are within two feet of original grade as prohibited by N.J.A.C. 7:9A-10.1 and calculated groundwater mounding along Schoolhouse Lane would likely result in break out of septic discharge in violation of N.J.A.C. 7:9A-7.1

NOW THEREFORE, be it resolved by the Board of Health of the Borough of Alpine, this 19th day of February 2019 that the application of Alpine Three, LLC for a septic permit is DENIED, for the reasons set forth herein and those adduced during the course of the hearings and written submissions.

Vote: Ayes: Dr. Dalavagas, Dr. Gasalberti, Mr. Inguaggiato, Sr., Dr. Laifer, Ms. Snow **MOTION APPROVED**